

BEFORE THE FISH AND WILDLIFE COMMISSION, THE STATE PARKS AND RECREATION BOARD, and the DEPARTMENT OF FISH, WILDLIFE and PARKS OF THE STATE OF MONTANA

In the matter of the ADOPTION OF) NOTICE OF PUBLIC HEARING ON
New Rules I through XXIV; the repeal) PROPOSED ADOPTION AND
of ARM 12.8.201, 12.8.202, 12.8.203,) REPEAL.
12.8.204, 12.8.205, 2.8.206,)
12.8.207, 12.8.208, 12.8.209,)
12.8.210, 12.8.212, 12.8.213,)
12.8.217, 12.8.218, 12.8.219,)
12.8.801, 12.8.802, 12.8.803,)
12.8.804, 12.8.805, 12.8.806,)
12.8.807, 12.8.808, 12.8.809,)
12.8.810, 12.8.811, 12.8.812,)
12.8.813, 12.8.814, 12.8.815,)
12.8.816, 12.8.817, 12.8.818,)
12.8.819,12.8.820, 12.8.821,)
12.8.822, 12.8.823 and 12.8.824;)
pertaining to the public)
use rules of FWP public lands.)

TO: All Concerned Persons

1. On October 2, 2023 at 10:00 AM the Montana Department of Fish, Wildlife and Parks, the Parks and Recreation Board, and the Fish and Wildlife Commission will hold a public hearing via the ZOOM meeting platform to consider the proposed adoption and repeal of the above-stated rules. There will be no in-person hearing. Interested parties may access the telephonic public hearing in the following way:

Dial by telephone: +1 646 558 8656
Meeting ID: 898 5557 5756
Passcode: 496060

2. The department, board and commission will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Fish, Wildlife and Parks (FWP), no later than 5:00 p.m., on September 22, 2023, to advise us of the nature of the accommodation that you need. Please contact Christina Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. General Statement of Reasonable Necessity. The Montana Department of Fish, Wildlife and Parks, the State Parks and Recreation Board, and the Fish and Wildlife Commission have statutory authority to establish rules governing the use of

public lands held in custody for public use as enacted by the Legislature. Together the department, commission and board are proposing consolidated public use rules for all department lands (e.g., state parks, fishing access sites, wildlife management areas, wildlife habitat protection areas, and fisheries conservation areas). Currently three different sets of public use rules are in place depending on site type. The purpose of the proposed consolidated rules is to provide for consistent management of public uses across all lands while maintaining the purpose of different site types, protecting fish, wildlife, habitat, cultural, and recreational resources, as well as improving customer service and understanding of expectations for public use.

4. The rules as proposed to be adopted provide as follows:

NEW RULE I (ARM 12.12.101) GENERAL POLICY (1) The following regulations shall govern the use of all lands under the control, administration, and jurisdiction of the Montana Department of Fish Wildlife and Parks.

(2) Regulations governing each specific area will be posted by the department on site and available on the FWP website and at FWP regional offices

(3) Lands controlled or administered by the department may be used for recreation or other purposes as set forth in these or other applicable rules or as otherwise provided by law.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portions of rule 12.8.201 proposed to be repealed herein.

NEW RULE II (ARM 12.12.102) DEFINITIONS (1) "Board" means the State Parks and Recreation Board established in 2-15-3406, MCA.

(2) "Camping" means to occupy a camping unit for temporary residence or sleeping purposes.

(3) "Campsite" means any area officially authorized to allow camping including designated, numbered, and dispersed camping sites.

(4) "Camping facility" means a lodging structure for overnight sleeping purposes such as cabins, tipis, or yurts.

(5) "Camping party" means any individual or group occupying a campsite.

(6) "Camping unit" means one sleeping device or shelter, a tent, motor home, camping bus, truck-mounted camping shell, pull-type camper, or other device designed and commonly used for sleeping.

(7) "Commission" means the Fish and Wildlife Commission established in 2-15-3402, MCA.

(8) "Day Use" means the hours of the half hour before official sunrise to the half hour after official sunset.

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

(10) "Developed area" means all or a part of a public use site that includes man-made features that are designed to facilitate recreational activities. These

features include parking areas, bathroom facilities, designated camping spaces, picnic facilities, established roads and trails, planted and maintained lawn or grass areas, boat launch facilities, dock facilities, interpretive facilities, and other improvements.

(11) "Director" means the Director of the Montana Department of Fish, Wildlife, and Parks.

(12) "Dispersed camping" means camping that occurs in areas that are not highly developed or individually signed and/or numbered.

(13) "Domestic animals" means dogs, cats, or other animals commonly owned as pets.

(14) "Livestock" means horses, cattle, sheep, goats, llamas, donkeys, and other animals commonly used for riding, packing or agricultural purposes.

(15) "Motorized Vehicle" means a 'motor vehicle' as defined in 61-1-101, MCA, and includes motorcycles, snowmobiles, off-highway vehicles, trailers, and motorhomes.

(16) "Non-Motorized vehicle" means any wheeled or tracked device not considered a motorized vehicle.

(17) "Occupancy" means the pre-determined maximum number of camping units and/or individuals that may occupy a campsite or camping facility based on size, location and other site attributes.

(18) "Occupy" means the use of a campsite or camping facility for the purposes of camping, by a person or party who has paid the camping fee within the applicable time limits or when it has been reserved through the appropriate procedures of the reservation system.

(19) "Primary occupant" means the person that a campsite or camping facility is registered to and who must be an occupant.

(20) "Public use sites" means fishing access sites, wildlife management areas, wildlife habitat protection areas, state parks, state parks affiliated lands, fisheries conservation areas, or any other lands managed by the department for public use.

(21) "Special use permit" means a permit used to authorize special events, noncommercial activities, organized groups, and other special uses occurring at public use sites.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portions of rules 12.8.801 and 12.8.803 proposed to be repealed herein. The definition rule is expanded so that repetition of definitions within each individual rule could be avoided, and for consistency of terminology throughout the rules.

NEW RULE III (ARM 12.12.103) RULES POSTED BY THE DEPARTMENT

(1) The department will post site-specific rules for a public use site on location, online and at FWP regional offices.

(2) While in a public use site it is prohibited to fail to comply with the rules set out in this chapter, or site-specific rules posted by the department.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA
IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates a portion of 12.8.209.

NEW RULE IV (ARM 12.12.104) PROHIBITED CONDUCT (1) The following conduct is prohibited in public use sites:

(a) arguing with, threatening, harassing, or intimidating another visitor or otherwise interfering with the lawful use by another;

(b) threatening, resisting, intimidating, arguing with, or intentionally interfering with any official, employee, or agent of the department engaged in the performance of his or her official duties or on account of the performance of his or her official duties;

(c) failing to comply with a lawful order issued by a department official, employee, or agent acting pursuant to these rules or law;

(d) creating a safety hazard;

(e) operating sound-emitting electronic devices, such as speakers, radios, televisions, or other equipment at a volume which projects sound beyond the person's immediate vicinity in a manner that disturbs others; or

(f) operating generators where prohibited or during public use site quiet hours between 10:00 pm and 7:00 am.

(2) In addition to any other penalty posted by the department, individuals violating this rule may be expelled immediately from the public use site.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA
IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portions of rules 12.8.208, 12.8.821, and 12.8.222 proposed to be repealed herein.

NEW RULE V (ARM 12.12.105) FEE COMPLIANCE AND CLOSURE (1) If in effect, fee requirements for public use sites shall be posted by the department on site.

(2) Regulations relating to establishment of fees for recreational use of lands owned and controlled by the State of Montana, acting by and through the commission or department will not be considered or processed as subject to the Montana Administrative Procedure Act.

(3) While in a public use site it is prohibited to:

(a) fail to pay any required day use, camping, group use, or any other required fee; or

(b) enter or remain in a public use site when closed.

(4) Wildlife management areas specifically managed as big game winter range, or portions of, are closed to all public entry from December 1 at 11:59PM through May 15 at noon each year unless otherwise approved by the commission and posted by the department.

(5) Wildlife management areas not managed specifically for big game winter range are open for public entry year-round unless otherwise posted by the department.

(6) The department may make special regulations for limited entry to closed wildlife management areas access roads or parking areas before noon on May 15 for the purpose of managing vehicles, parking, public safety, and resource impacts. The regulations shall be posted by the department where in effect.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA
IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portions of rules 12.8.209, 12.8.213, and 12.8.820 proposed to be repealed herein.

NEW RULE VI (ARM 12.12.106) PROPERTY DISTURBANCE (1) While in a public use site it is prohibited to:

(a) damage, deface, destroy or possess any natural features, developed features, or vegetation;

(b) damage, deface, destroy, possess, or permit the disturbance or removal of topsoil or subsoil, nonfossilized and fossilized paleontological specimens, cultural or archeological resources, or the parts thereof;

(c) gather or cut firewood for offsite use, except where otherwise authorized by the department;

(d) design, construct, place, or occupy any structure, such as development or placement of unauthorized roads, trails, signs, and landscape features;

(e) place or leave a geocache or other object without written permission from the department; or

(f) use a mineral or metal detector, magnetometer, or other metal detecting device at public use sites without written permission from the department.

(2) Unauthorized structures are subject to removal or impoundment.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA
IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portions of rules 12.8.207, 12.8.802, and 12.8.817 proposed to be repealed herein.

NEW RULE VII (ARM 12.12.107) DESIGNATED AND DISPERSED CAMPING SITES (1) Unless otherwise posted by the department, within a public use site it is prohibited to:

- (a) camp in any area, except those specifically designated or marked for that purpose;
 - (b) camp, leave camping equipment, or otherwise attempt to occupy a campsite that is reserved or occupied by another person or group;
 - (c) leave a camping unit or other vehicle, equipment, or personal items in a campsite overnight without a person present;
 - (d) camp at one or more campsites in a public use area for a period of longer than 7 nights during any consecutive 30-day period, beginning with the first night occupied unless otherwise posted by the department;
 - (e) exceed the designated occupancy limit of a campsite;
 - (f) fail to comply with the terms of a special use permit;
 - (g) fail to vacate campsite by posted check out time; or
 - (h) travel more than 50 yards with a motorized vehicle from a designated road in areas designated for dispersed camping.
- (2) Campsites shall be vacated by 1:00 p.m. on the day of departure.
 - (3) Camping facilities shall be vacated by 12:00 p.m. on the day departure.
 - (4) Boat-in campsites shall be solely for the use of the individuals traveling by watercraft as their primary mode of transportation to the site.
 - (5) The maximum limit for a single occupancy campsite shall be eight people, one camping unit, and two additional tents unless otherwise authorized by the department.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA
 IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portions of rules 12.8.205 and 12.8.803 proposed to be repealed herein.

NEW RULE VIII (ARM 12.12.108) FIRES AND FIREWORKS (1) Unless otherwise posted by the department in a public use site it is prohibited to:

- (a) light or maintain a fire at state parks or fishing access sites except in designated fire ring;
 - (b) light or maintain a fire outside of a designated fire ring in a public use site where it is posted by the department that fires are limited to fire rings;
 - (c) violate an authorized county or state fire restriction order;
 - (d) light or maintain a fire or burning materials, that causes damage or threatens to cause damage to property or recreation site resources, creates litter, or otherwise creates a public safety hazard;
 - (e) causes damage to property or resources, or otherwise creates a public safety hazard;
 - (f) departs a campsite or day use area without completely extinguishing a fire; or
 - (g) light, or discharge any fireworks, rockets, or other type of explosives including exploding targets.
- (2) Smoking in a public use site is allowed in outdoor areas unless posted by the department.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA
IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portions of rules 12.8.202, 12.8.206, 12.8.805, and 12.8.819 proposed to be repealed herein.

NEW RULE IX (ARM 12.12.109) FOOD STORAGE (1) In public use sites where food storage rules apply and are posted by the department, it is prohibited to fail to comply with the food storage rules. The following acts are prohibited annually from March 1 to December 1 on all public use sites where food storage rules apply:

(a) possessing or storing any food for human or animal consumption, refuse, or items that may have remnants or smell like food or refuse (including personal hygiene products, beverages, unburned food or garbage residue from fire pits or stoves, or empty food or beverage containers but excluding water or water containers, hay, or hay cubes without additives), unless these items are:

(i) attended by a person who is awake, alert, and within one hundred feet and line-of-sight of the items;

(ii) suspended at least ten feet off the ground and at least four feet from any supporting tree or pole;

(iii) stored in a container or using a method listed in the most current interagency Grizzly Bear Committee Certified Bear-Resistant Products list or that has been approved under the IGBC's courtesy inspection program (non-commercial products made for personal use may be inspected and approved under that program). This includes electric fences that are installed properly and meet the design and minimum electrical output specifications on that list, and are tested for proper operation at least every twenty-four hours with a voltmeter; or

(iv) stored in a closed vehicle, trailer, building, or facility constructed of solid, non-pliable material that, when secured, has no openings, hinges, lids, or coverings that would allow a bear to gain entry by breaking, bending, tearing, biting, or pulling with its claws (any windows must be closed). Horse or livestock trailers may not have any openings greater than ten inches in two dimensions and must have any food, refuse, or animal carcasses stored more than three feet from any opening.

(b) possessing or storing any bird, fish, or other animal carcass or parts thereof (including livestock carcasses) that have not been prepared for human or animal consumption, unless these items are:

(i) being field dressed, transported, or prepared for eating;

(ii) stored in accordance with department-approved storage methods and at least one hundred yards from any known occupied camping area; or

(iii) possessed more than one quarter mile (straight-line distance) from any known occupied camping area and more than two hundred yards from any established trail or road.

(c) camping within one hundred yards of any known bird, fish, or other animal carcass or parts thereof (including livestock carcasses) stored in accordance with Montana Fish, Wildlife and Parks approved storage methods; or one quarter mile of any known bird, fish, or other animal carcass or parts thereof (including livestock

carcasses) not stored in accordance with Montana Fish, Wildlife and Parks approved storage methods.

(3) The following persons are exempt from this rule:

(a) persons with special authorization from the department that specifically exempts them from the effect of this rule; and

(b) any federal, state, or tribal employee placing baits for research or management purposes as part of their official duties.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portions of rule 12.8.806 proposed to be repealed herein. This rule also incorporates food storage regulations required for nearby Forest Service land use.

NEW RULE X (ARM 12.12.110) SANITATION AND WASTE DISPOSAL (1)

Unless otherwise posted by the department in a public use site it is prohibited to:

(a) deposit household or commercial garbage or trash at a public use site brought in from another property;

(b) dispose or dump sewage or wastewater from trailers, campers, boats, or portable toilets anywhere except in designated facilities;

(c) dispose, refuse or fish remains, in a latrine or other bathroom facilities;

(d) dispose of human bodily waste in developed areas, except at a designated restroom, latrine, or other facility intended for such purpose;

(e) in undeveloped areas, dispose of human bodily waste within 100 feet of a water source, campsite or trail unless otherwise posted by the department;

(f) where required, dispose of human waste or toilet paper anywhere but in a department-approved human waste carry-out system; or

(g) dispose or burn trash in fire rings such as aluminum cans, glass bottles, steel cans, diapers, and all other trash.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portions of rules 12.8.210 and 12.8.807 proposed to be repealed herein.

NEW RULE XI (ARM 12.12.111) DOMESTIC ANIMALS (1) Except as otherwise posted by the department, domestic animals within a developed area must be physically restrained or on a leash no greater than eight feet in length at all times.

(2) The owner, handler, or person who brought a domestic animal into a public use site is responsible for that animal and is prohibited from;

(a) allowing a domestic animal to dig, disturb or otherwise damage a developed area;

(b) allowing a domestic animal to be in an area or facility where it is posted by the department that domestic animals are prohibited (excluding service animals);

- (c) violating any public use site-specific posted domestic animal rules;
 - (d) failing to remove and properly dispose of any waste produced by the domestic animal in a developed area; or
 - (e) allowing a domestic animal to bite, chase, harass, or create a nuisance, annoyance, or danger to visitors, wildlife, and other animals.
- (3) Written authorization by the department is required prior to conducting organized dog training or field trials on public use sites.
- (4) In addition to any other penalty in this part, individuals in possession of such animals may be expelled from the site.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA
IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portions of rules 12.8.203 and 12.8.808 proposed to be repealed herein.

NEW RULE XII (ARM 12.12.112) LIVESTOCK (1) The department may close trails and other parts of public use sites to the use of horses, llamas, or similar animals.

- (2) Unless otherwise posted by the department, the following are prohibited in public use sites:
- (a) failure to clean up animal feces, feed, or bedding materials in a developed area; or
 - (b) to range, graze, water, or allow cattle or other livestock in public use sites except where specifically permitted or authorized by a lease, license, or other written agreement with the department.
- (3) Horses, llamas, or similar animals must be corralled or tethered when not in use.
- (4) Proof of certified, weed-free feed is required on all department lands.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA
IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to clarify the distinction between domestic and livestock animals and incorporating portions of 12.8.808 and 12.8.809 proposed to be repealed herein.

NEW RULE XIII (ARM 12.12.113) WEAPONS (1) Except as posted by the department, discharge of any weapon as defined in 45-2-101, MCA, such as firearms, explosives, air or gas weapons, paintball guns, arrows from a bow, spears, or spear guns on or over either land or water is prohibited in public use sites.

- (2) The possession, display, carrying, discharge, or use of a firearm in public use site must be in compliance with title 45, chapter 8, part 3, MCA.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA
IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portions of rules 12.8.202 and 12.8.810 proposed to be repealed herein.

NEW RULE XIV (ARM 12.12.114) HUNTING AND TRAPPING (1) When open to public use, wildlife management areas and fishing access sites are open to all commission established hunting and trapping seasons unless otherwise prohibited and posted. Written authorization by the department is required prior to trapping on a wildlife management area or fishing access site. The commission authorizes the department to issue specific restrictions on hunting and trapping at a wildlife management area or fishing access site.

(2) State parks are open to all commission established hunting seasons unless prohibited by the board. The board authorizes the department to issue specific restrictions on hunting at a state park where hunting is allowed. Trapping is prohibited in state parks.

(3) While hunting in a public use site it is prohibited to hunt within a posted safety zone.

(4) Where hunting is legally allowed, temporary hunting blinds, tree stands, goose pits, and similar structures are allowed and must be removed at the end of the season.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA
IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portion of rule 12.8.811 proposed to be repealed herein.

NEW RULE XV (ARM 12.12.115) MOTORIZED AND NON-MOTORIZED VEHICLES (1) The rules in this chapter apply to all motorized and non-motorized vehicles. The following are prohibited in public use sites:

(a) operating a motorized or non-motorized vehicle in violation of posted traffic rules, such as speed limits, yield or stop signs, and directional signage;

(b) operating a motorized or non-motorized vehicle off of authorized routes;

(c) driving or operating a vehicle on any road, trail, or area which is specifically posted against such use;

(d) driving or operating a vehicle beyond or around a barrier or structure intended to physically prevent such use;

(e) operating a snowmobile except in designated areas; or

(f) operating non-motorized vehicles in violation of posted restrictions.

(2) Unless otherwise posted by the department the maximum speed limit within a developed area is fifteen miles per hour, and the maximum speed limit elsewhere in a public use site is twenty-five miles per hour.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA
IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portions of rules 12.8.204, 12.8.812 and 12.8.815 proposed to be repealed herein.

NEW RULE XVI (ARM 12.12.116) PARKING (1) The department may designate and sign individual parking spaces or groups of parking spaces for vehicle parking, boat trailer parking, day use parking, and registered camper parking at public use sites. Parking outside of these designated, signed parking spaces is prohibited.

(2) It is prohibited to park a vehicle in any public use site in violation of the posted parking rules.

(3) Vehicles parked in any public use site in violation of (1) and posing an immediate and significant public safety concern may be towed.

(4) If the operator is not with the vehicle at the time of the violation, the registered owner of the motor vehicle is personally responsible for the costs. A defense that the motor vehicle was driven into a public use site by another person is not allowed unless it is shown that at the time, the motor vehicle was being used without the consent of the registered owner.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA
IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portions of rule 12.8.813 proposed to be repealed herein.

NEW RULE XVII (ARM 12.12.117) UNMANNED VEHICLES (1) Unless permitted by the department, it is prohibited to launch or operate an unmanned terrestrial, aerial, or aquatic vehicle from or on a public use site.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA
IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portions of rule 12.8.816 proposed to be repealed herein.

NEW RULE XVIII (ARM 12.12.118) ABANDONED PROPERTY (1) Property, other than vehicles, left unattended for more than 48 hours may be impounded, except where otherwise posted by the department.

(2) Unattended property that interferes with public safety, orderly management of the recreation site or presents a significant threat to department resources may be impounded immediately.

(3) Unattended property impounded pursuant to this rule shall be deemed abandoned unless claimed by the owner or an authorized representative thereof within 60 days. The 60-day period shall begin at the time the property is placed in the department's custody.

(4) Property left unclaimed pursuant to (3) will be disposed of in accordance with state surplus property policy.

MAR Notice No. 12-603

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA
IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portions of rule 12.8.814 proposed to be repealed herein.

NEW RULE XIX (ARM 12.12.119) DAY USE, GROUP USE, AND SPECIAL USE PERMIT (1) Failure to obtain a special use permit when required is prohibited.

- (2) A special use permit and payment of required fees is required for:
 - (a) organized groups or gatherings with 30 or more people at a state park or fishing access site, and 10 or more people at a wildlife management area, fisheries conservation area, or wildlife habitat protection area;
 - (b) special events such as weddings and reunions; or
 - (c) reservable facilities such as shelters, pavilions, amphitheaters, meeting rooms, or other facilities or areas.
- (3) A special use permit may be required for:
 - (a) organized groups or gatherings with fewer than 30 people; or
 - (b) special uses or activities based on type of use or site-specific conditions.
- (4) The availability of a special use permit depends on factors such as:
 - (a) management purposes for the site;
 - (b) department capacity to manage the event or activity;
 - (c) impacts on the cultural, heritage, natural, wildlife, and recreational resources;
 - (d) impacts on interpretive, visitor service, other program activities, or with the administrative activities of the department; or
 - (e) impacts on the general public at the site.
- (5) Facilities such as shelters, pavilions, amphitheaters, meeting rooms, or other similar facilities or areas may be reserved, subject to availability and approval by staff.
 - (a) Reservations must be made within the established reservation window.
 - (b) Reservations may be denied or canceled by the site manager to address public safety or resource protection concerns.
 - (c) When using a reservable facility, the confirmed reservation will serve as the special use permit.
 - (d) If not reserved, facilities are available on a first-come, first-served basis.
- (6) All recipients of a special use permit and people associated with the permitted activity must comply with the terms and conditions of the permit.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA
IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portions of rules 12.8.205 and 12.8.804 proposed to be repealed herein.

NEW RULE XX (ARM 12.12.120) SOLICITING AND PUBLIC ASSEMBLY (1)

Soliciting or demanding gifts, money, goods, or services is prohibited at public use sites, except pursuant to the terms and conditions of a special use permit or commercial use permit, or other contract issued by the department for such activity.

(2) Public assembly of one or more individuals, including demonstrations, picketing, speechmaking, marching, holding vigils or services, dissemination or sharing of other information, and similar forms of conduct that involve the communication or expression of views or grievances, or are reasonably likely to attract a crowd or onlookers, are allowed at public use sites when a permit has been issued.

(3) The department may place stipulations on the permitted activity, such as stipulations to protect public health and safety, protection of site resources, and to ensure the activity is consistent with the purpose of the site.

(4) An application for a permit must be submitted on a form provided by the department.

(5) Areas within public use sites may be designated for permitted public assembly activities provided that activities would not:

(a) cause injury or damage to cultural, heritage, natural, wildlife, and recreational resources;

(b) interfere with the management purposes for the site;

(c) unreasonably impair the atmosphere of peace and tranquility maintained in natural, historic, or commemorative zones;

(d) unreasonably interfere with interpretive, visitor service, or other program activities, or with the administrative activities of the department;

(e) substantially impair the operation of public use facilities or services of concessioners, holders of commercial use authorizations, or contractors;

(f) present a clear and present danger to the public health and safety; or

(g) be otherwise incompatible with the nature and traditional use of the particular site involved.

(6) The department must issue a permit or a written denial within ten days of receiving a complete and fully executed application. A permit will be issued unless:

(a) a prior permit application has been or will be granted for the same time and place, and the activities authorized by that permit do not reasonably allow multiple occupancy of that particular area;

(b) it reasonably appears that the event will present a clear and present danger to public health or safety;

(c) the event is of such nature or duration that it cannot reasonably be accommodated in that site, considering things such as damage to site resources or facilities, impairment of a protected area's atmosphere of peace and tranquility, interference with program activities, or impairment of public use facilities;

(d) the location applied for has not been designated as available under (3); or

(e) the activity would constitute a violation of an applicable law or regulation.

(7) The permit may contain conditions reasonably consistent with the requirements of public health and safety, protection of resources, and the use of the site for the purposes of which it was established. It may also contain reasonable limitations of the equipment used and the time and area within which the event is allowed.

(8) Violation of these regulations or the terms of the permit are prohibited and may lead to permit revocation in addition to other applicable penalties.

(9) Revocation of a permit or order to cease will be made in writing, with the reasons clearly set forth. In emergency situations, verbal revocation or order to cease may take place, followed by written confirmation within 72 hours.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portion of rule 12.8.818 proposed to be repealed herein.

NEW RULE XXI (ARM 12.12.121) EMERGENCY CLOSURES (1) The commission and board authorize the department to adopt temporary emergency rules to close a public use site or portions thereof to public use as provided in (NEW RULE XXII – ARM 12.12.122).

(2) Public use of the public use site means any public occupation of the land.

(3) The commission and board authorize the department to reopen designated recreation areas closed by temporary emergency rules as provided in (NEW RULE XXII – ARM 12.12.122).

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portion of rule 12.8.217 proposed to be repealed herein.

NEW RULE XXII (ARM 12.12.122) EMERGENCY CLOSURE CRITERIA

(1) The department may, pursuant to (NEW RULE XXI – ARM 12.12.121), adopt temporary emergency rules under the following criteria:

(a) the department receives written request for closure of a public use site from the interagency fire management team or similar authority that provides the description of where to implement the fire closure;

(b) the department determines that firefighting efforts on or near the public use site creates imminent peril to the public health, safety, or welfare; or

(c) the department determines that dangerous conditions exist on or near the public use site that creates imminent peril to public health, safety, or welfare.

(2) The department may reopen the public use site by repealing a temporary emergency rule when it determines that firefighting efforts or dangerous conditions on or near the area have subsided to the extent that imminent peril to the public health, safety, and welfare no longer exists.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates and amends portions of rule 12.8.218 proposed to be repealed herein.

NEW RULE XXIII (ARM 12.12.123) NOTIFICATION OF EMERGENCY CLOSURE AREAS (1) Prior to or simultaneously with the effective date of the closure of a public use site the department shall:

- (a) notify the commission or board;
- (b) post notice of the closure on the agency website;
- (c) post notice of the closure within and near the affected area; and
- (d) send press releases regarding the closure to newspapers and media outlets having general distribution in the affected area.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA
IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates and amends portions of rule 12.8.219 proposed to be repealed herein.

NEW RULE XXIV (ARM 12.12.140) PENALTIES AND APPEAL (1) Except where otherwise specified, a violation of these rules is a misdemeanor pursuant to 87-6-102, MCA or 23-1-106, MCA.

(2) Individuals violating these rules may also be expelled immediately from the public use site for up to 48 hours. Failure to comply with the expulsion may constitute criminal trespass.

AUTH: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA
IMP: 23-1-102, 23-1-106, 23-1-111, 87-1-301, 87-1-303, 87-1-201, MCA

REASON: FWP is adopting this rule to place all public land use rules in the same location and incorporates portions of rules 12.8.823 and 12.8.824 proposed to be repealed herein.

5. The department proposes to repeal the following rules:

12.8.201 GENERAL POLICY

AUTH: 23-1-106, 87-1-303, MCA
IMP: 23-1-106, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.202 WEAPONS AND FIREWORKS

AUTH: 23-1-106, 87-1-303, MCA
IMP: 23-1-102, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.203 CONTROL OF ANIMALS

AUTH: 23-1-106, 87-1-303, MCA
IMP: 23-1-102, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.204 VEHICLES

AUTH: 23-1-106, 87-1-303, MCA
IMP: 23-1-102, 87-1-303, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.205 CAMPING, DAY AND GROUP USE

AUTH: 23-1-106, 87-1-303, MCA
IMP: 23-1-102, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.206 FIRES

AUTH: 23-1-106, 87-1-303, MCA
IMP: 23-1-102, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.207 PROPERTY DISTURBANCE

AUTH: 23-1-106, 87-1-303, MCA
IMP: 23-1-102, MCA

MAR Notice No. 12-603

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.208 DISORDERLY CONDUCT

AUTH: 23-1-106, 87-1-303, MCA
IMP: 23-1-102, 87-1-303, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.209 RESTRICTED AREAS AND NIGHT CLOSURES

AUTH: 23-1-106, 87-1-303, MCA
IMP: 23-1-102, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.210 SANITATION AND LETTER WASTE DISPOSAL

AUTH: 23-1-106, 87-1-303, MCA
IMP: 23-1-102, 87-1-303, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.212 BOATING AND SWIMMING

AUTH: 23-1-106, 87-1-303, MCA
IMP: 23-1-102, 87-1-303, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in statute. It is repealed for clarity and consistency in the administrative rules.

12.8.213 RECREATION USE FEES

AUTH: 23-1-106, 87-1-303, MCA
IMP: 23-1-102, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.217 DEPARTMENT'S AUTHORITY TO CLOSE DESIGNATED RECREATION AREAS DUE TO EMERGENCY

AUTH: 23-1-106, 87-1-303, MCA
IMP: 2-4-303, 23-1-106, 87-1-303, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.218 EMERGENCY DESIGNATED RECREATION AREA CLOSURE CRITERIA

AUTH: 23-1-106, 87-1-303, MCA
IMP: 2-4-303, 23-1-106, 87-1-303, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.219 NOTIFICATION OF EMERGENCY DESIGNATED RECREATION CLOSURE AREAS

AUTH: 23-1-106, 87-1-303, MCA
IMP: 2-4-303, 23-1-106, 87-1-303, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.801 DEFINITIONS

AUTH: 23-1-106, 23-1-111, MCA
IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.802 PROPERTY DISTURBANCE

AUTH: 23-1-106, 23-1-111, MCA
IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.803 CAMPING AND LODGING

AUTH: 23-1-106, 23-1-111, MCA
IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.804 DAY USE, GROUP USE, AND SPECIAL USE PERMIT

AUTH: 23-1-106, 23-1-111, MCA
IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.805 FIRES

AUTH: 23-1-106, 23-1-111, MCA
IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.806 FOOD STORAGE

AUTH: 23-1-106, 23-1-111, MCA
IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.807 SANITATION AND WASTE DISPOSAL

AUTH: 23-1-106, 23-1-111, MCA
IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.808 CONTROL OF ANIMALS

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.809 HORSES AND PACK ANIMALS

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.810 WEAPONS

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.811 HUNTING AND TRAPPING

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.812 MOTOR VEHICLES

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.813 PARKING

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.814 ABANDONED PROPERTY

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.815 USE OF NONMOTORIZED VEHICLES

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.816 UNMANNED AIRCRAFT SYSTEMS AND MODEL AIRCRAFT

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.817 GEOCACHING

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.818 SOLICITING AND PUBLIC ASSEMBLY

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.819 SMOKING

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.820 RESTRICTED AREAS AND NIGHT CLOSURES

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.821 DISTURBANCES

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.822 INTERFERENCE WITH AGENCY FUNCTIONS

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.823 PENALTIES

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

12.8.824 APPEALS

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: FWP is proposing repeal of the above rule because it duplicates information in the proposed rules. It is repealed for clarity and consistency in the administrative rules.

6. Concerned persons may submit their data, views, or arguments orally at the telephonic hearing. Written data, views, or arguments may also be submitted to: Charlie Sperry, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; or email fwppublicuserules@mt.gov, and must be received no later than 5:00 p.m., October 10, 2023.

7. Christina Bell or another hearing officer appointed by the department has been designated to preside over and conduct the hearing.

8. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department, board or commission. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing or email address of the person to receive the notice. Such written request may be mailed or delivered to: Department of Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be emailed to cbell@mt.gov.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption and repeal of the above-referenced rules will not significantly and directly impact small businesses.

11. With regard to the department of public health and human services (DPHHS) consultation, review and approval requirements for rules "with regard to

issues of public health and human sanitation”, FWP provided these proposed rules to DPHHS on June 16, 2023, and received approval prior to publication of this notice pursuant to §§ 23-1-111(1)(c) and 87-1-303(2), MCA.

/s/
Jaime MacNaughton
Rule Reviewer

/s/
Lesley Robinson
Chair
Fish and Wildlife Commission

s/
Dustin Temple
Director
Fish, Wildlife and Parks

/s/
Russ Kipp
Chair
State Parks and Recreation Board

Certified to the Secretary of State August 29th, 2023.