



MONTANA FISH AND WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

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Meeting Date: Aug. 17, 2023

Agenda Item: Initiation of MAPA rulemaking process and amendments to Administrative Rules of Montana (ARM) 12.9.1401 (Grizzly Bear Policy)

Action Needed: Initiate formal MAPA/SOS rulemaking process on the draft rules and amendments

Time Needed on Agenda for this Presentation: 15 minutes

Background: Current ARMs 12.9.1401 and 12.9.1403 address state management of grizzly bears. Senate Bill (SB) 295, passed during the 2023 Legislative Session, would further clarify how Montana will manage delisted grizzly bears relative to human safety, conflict with livestock, and genetic exchange. SB 295 also requires the Fish and Wildlife Commission (Commission) to adopt rules prior to delisting.

The Montana Secretary of State (SOS) defines and implements the ARM development and amendment process, including process steps and timeline. This includes opportunities for public participation. At their June 8, 2023, meeting, the Commission approved the initiation of ARM rule making. The next step scheduled for their Aug. 17, 2023, meeting is the Commission's approval of draft rule language.

Public Involvement Process and Results:

The public will have a chance to submit oral and written comments on the draft rule language once the draft rules are published in the Montana Administrative Register (MAR), consistent with the Montana Administrative Procedure Act (MAPA) Rulemaking process and the Secretary of State's (SOS) rulemaking procedure. FWP will send out a notice and press release when the draft rules are published in the MAR and the written public comment period opens. FWP will also give specific instructions on how to submit the written comments and the date and location of the public hearing for oral comments on the proposed draft rules/amendments. Written and oral comments submitted during the MAPA/SOS rulemaking process become part of the record of rulemaking. and are considered by the Commission prior to any action (including adoption/amendment) on the draft rules. FWP will collect all of those written and oral public comments submitted through that MAPA/SOS process and put them in front of the Commission for consideration and discussion before the Commission takes any final action on the proposed adoption/amendment of the rules. People may be allowed short oral comments on this agenda item at this Commission meeting, but any such comments during the meeting will not become part of the rulemaking record (as that is governed by the MAPA and SOS process) and will not be put in front of the Commission with the other comments submitted as part of the rulemaking record. Any oral public comments given at this meeting must be limited to the decision before the Commission at this time, which is: should these draft rules and amendments go through the formal MAPA/SOS rulemaking process (which will include an additional public comment period)?

Alternatives and Analysis:

The commission could reject the draft rule language and proposed amendments to ARM 12.9.1401. . This would not address SB 295's directive to the Commission to adopt implementing rules.

Agency Recommendation and Rationale: FWP recommends the Commission initiate the formal MAPA rulemaking process—through the prescribed SOS procedure, including the public comment period and public



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hearing—on the department’s proposed draft rule language addressing grizzly bears and their management to be in compliance with SB 295.

Proposed Motion: I move the Fish and Wildlife Commission initiate the formal MAPA rulemaking process—through the prescribed SOS procedure, including the public comment period and public hearing—on the department’s draft rule language amending ARM 12.9.1401 and proposed new administrative rules.