

My name is Trina Jo Bradley, and I am a livestock producer in northern Montana. Our cattle ranch is situated on the southern border of the Blackfeet Reservation, and is home to many iconic wildlife species, including grizzly bears.

I have long been a proponent of state-managed grizzly bears, and I was a huge supporter of SB 295 during the 2023 legislative session.

I have a few specific concerns/suggestions:

1. New Rule I: I would suggest adding the following definition for “threat” - A person or livestock that is perceived to be in imminent danger of bodily harm or death.
2. New Rule I: I would suggest adding the following definition for “threatening” - A grizzly bear or bears that is/are perceived to intend bodily harm or death to humans or livestock.
3. New Rule II: I would suggest editing the first sentence to say, “The department will implement management strategies to ensure grizzly bears continue to thrive and are integrated as a valuable part of Montana’s wildlife heritage, while also recognizing that Montana’s working lands are a vital part of those management strategies.”
4. New Rule III, Sections 4 and 5: Night time is a gray area here. What if the quota is met and posted at 11 p.m., and a producer gets up at 2 a.m. to check cows and shoots a grizzly bear? I would suggest adding language about a grace period that is up to the discretion of the Director or his designee.
5. New Rule VII, Section 3, Subsection B: Opponents to SB 295 and these Rules could make claims that livestock is bait. I’d like to see a clarification that livestock on the landscape does not constitute baiting. I am aware that fact is stated in New Rule IX, but I’d like to see it both places.
6. New Rule VII, Section 3, Subsection C: I’d like to see a notation that sometimes there are no non-lethal measures that are appropriate or possible for some areas, but that doesn’t mean the producer isn’t trying to protect his/her livestock.
7. New Rule VII, Section 3, Subsection C: As quickly as grizzly bears are expanding, they may turn up on private or public land where no one expected them, and thus did not have non-lethal measures in place because they weren’t aware they were even needed. I would guess that discretion would also be left up to the Director or his designee, but should also be noted.

8. New Rule VII, Section 3, Subsection C: Opponents will argue that permits should not be allowed on public land, but having consistent rules across private and public lands - especially where state land is interspersed with private land - is important.

Montana's working lands provide valuable habitat and connectivity opportunities for grizzly bears and other wildlife. To keep these lands viable, agricultural producers need every tool available to them - both lethal and non-lethal. These proposed rules will provide another valuable tool - as well as peace of mind - for producers.

After reading the proposed rules and amendments, and clarifying points with Fish, Wildlife, and Parks leadership, I fully support the adoption of New Rules I through XIII, and the amendment of ARM 12.9.1401, with the edits that I previously noted.



Wildlife Division
ATTN: Grizzly Bear ARM
Montana Fish, Wildlife and Parks
PO Box 200707
Helena, MT 59620-0701

RE: Grizzly Bear ARM-SB 295 Rulemaking

Dear Director Temple and Commissioners,

Thank you for the opportunity to submit written comment on draft grizzly bear ARM. I respectfully submit these comments on behalf of Glacier-Two Medicine Alliance and our more than a thousand members and supporters across northwest Montana. These comments reflect our verbal testimony on Friday, November 17th and are in addition to the those we submitted jointly with other organizations.

NEW RULE I (ARM 12.9.1404) DEFINITIONS

A definition for the word “Threatening” needs to be crafted. Whether a grizzly bear is “threatening” livestock is the key criteria for determining whether to issue a permit to kill a grizzly bear. Without a definition, what is judged to be “threatening” behavior will vary widely. Could a bear whose home range keeps it in close proximity to cattle that graze public land but has never attacked cattle be deemed to be threatening? Public comments offered during the state legislative session indicated that some people would say yes. Such key criteria need to be defined to ensure consistent application.

NEW RULE II (ARM 12.9.1405) GRIZZLY BEAR MANAGEMENT OBJECTIVE

We suggest adding the phrase “natural genetic and demographic” to the last sentence so that it reads: “ The department’s grizzly bear management objective is to maintain and enhance Montana’s contribution to the grizzly bear population in the lower-48 states and the grizzly bear’s *natural genetic and demographic* connectivity between populations in and outside Montana.” Both types of connectivity are necessary to establish and maintain a viable, persistent meta-population of grizzly bears in Montana. The addition of the word natural properly clarifies that FWP objective is to manage for the conditions where bears can connect on their own, and not rely on trapping and relocation indefinitely.

NEW RULE III (ARM 12.9.1406) THE QUOTA ESTABLISHING AND ADJUSTING THE QUOTA

As written, it is unclear what data or other criteria the commission may use to establish the quota. This should be clarified and based on the level of human-caused mortality the current grizzly bear population can sustain

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as estimated by the best available science. Furthermore, the rule should clarify that the quota may be adjusted in light of other human-caused mortality so that the department can, as stated in New Rule II, “ensure that recovery is maintained.”

NEW RULE V (ARM 12.9.1408) GRIZZLY BEAR MORTALITIES THAT APPLY TO THE QUOTA AND THE MORTALITY THRESHOLD

The language needs to be clarified that grizzly bears taken pursuant to the permit/quota system count toward the quota and mortality threshold no matter where they occur. As written, it sounds like grizzly bears taken under this permit system will only count toward mortality thresholds if they are taken in the DMA. We are concerned this narrow application will result in unsustainable levels of mortality for grizzly bears in so-called connectivity zones, bears critical to the long-term recovery and persistence of grizzly bears in Montana.

NEW RULE VII (ARM 12.9.1410) ALLOWABLE LETHAL MANAGEMENT OF THE GRIZZLY BEAR

We strongly support the addition of (3)(c), which requires the use of non-lethal measures prior to the issuance of a permit. Public lands and the wildlife they support belong to all of us. Grazing livestock on public lands is a privilege that carries responsibilities to the public to be good stewards of the resource they are utilizing. Thus, it is proper that they must utilize non-lethal conflict prevention measures prior to the issuance of a permit. However, we believe the language needs to be strengthened. The rule should clarify that FWP must document in writing the use of at least (2) non-lethal measures defined in New Rule VII for a sufficient length of time to be effective deterrence prior to considering the issuance of a permit. This will demonstrate good faith efforts and generate greater trust by the public in the process. Furthermore, we believe that the requirement to utilize non-lethal measures should extend to private lands. Grizzly bears are, after all, the public’s wildlife. Montana landowners take pride in being good stewards of public resources; a commitment to utilize non-lethal measures first reflects this responsibility and neighborly value.

That said, we strongly believe the permit system should not apply to public lands. There is no analog for issuing a permit to a private person to kill wildlife on public land for real or potential loss of livestock, let alone a recently de-listed, slow reproducing species like grizzly bears.

Thank you for recognizing the importance of grizzly bears to all Montanans and for working to find an appropriate balance between a livestock owners rights and interests and the rights and interests of the public to whom grizzly bears belong when it comes to managing for a healthy, robust population of grizzly bears in Montana and elsewhere in the lower-48 states. We believe these suggestions, along with those we submitted with our partners and presented in public testimony previously, get us closer to finding that golden balance than the draft Rules as presently written.

Sincerely,



Peter Metcalf
Executive Director



PEOPLE AND CARNIVORES
Solutions that work for people and wildlife

November 17, 2023

Montana Department of Fish, Wildlife & Parks
Montana Fish and Wildlife Commission
Delivered via fwpwd@mt.gov

Re: New Rules and ARM 12.9.1401 Amendments Pertaining to Grizzly Bears

To the Montana Fish and Wildlife Commission:

Thank you for your work on behalf of Montana citizens and wildlife. Please accept this letter as input from People and Carnivores on proposed new rules and amendment of ARM 12.9.1401 pertaining to grizzly bears.

As background on our role in grizzly bear conservation and management, People and Carnivores has been working in the field to reduce conflicts between large carnivores and Montanans for the last 15 years. We are the only organization focusing solely on conflict prevention as a means of conserving large carnivores, facilitating ecological connectivity, safeguarding people and property, and helping preserve rural communities and livelihoods. We partner with agencies and landowners to design, implement, and maintain proactive solutions on the ground that keep carnivores separated from people or attractants. We value our strong relationships with federal and state agencies, including the Department of Fish, Wildlife & Parks.

We have submitted comments throughout this rule change process, starting during the legislative session on SB295. We last submitted comments ahead of the Commission's August 17 meeting at which it discussed rule language pertaining to grizzly bears.

We want to thank the Commission for adding (3)(c) to New Rule VII. This is a positive change that promotes conflict prevention methods and tools. We know from our extensive experience working with communities and private landowners that conflict prevention methods and tools are effective. Notably, on nearly all of our hundreds of projects, once we apply preventative tools, we see no losses for humans, property, or bears. We understand that lethal control is a necessary tool for grizzly bear management. That said, we see this tool as a last resort after proactive solutions are exhausted, and conflict prevention tools like livestock guardian dogs, range riders, and scare devices are often more effective and should be more prominent within the Department's management toolbox.

We urge the Commission to continue to improve the new rule language in similar ways to that of VII(3). Below, we reiterate our previous comments on ways in which these new rules can be further amended to protect people and grizzlies and lessen the need for lethal control.

Concerning Amendment of ARM 12.9.1401

In outlining rules around depredations, section (1)(d)(iv) states that grizzlies that do not directly endanger human life but that cause “non-livestock related property losses” shall be evaluated on a case-by-case basis. This provision needs more detail on what is meant or included in “non-livestock property.” For example, even on a case-by-case basis, it would not be reasonable to spend agency resources or consider killing a grizzly bear that, for example, damaged a tree, dug up a garden, broke a fence or a window and the like; even getting into certain crops. Further, responses to these scenarios would be reactive, and therefore, more costly and less effective in terms of management. Instead of promoting reactive responses, preventive actions should be emphasized, such as deterrence strategies, tools, and practices/education. Proactive prevention ensures property losses do not happen in the first place, property does not need to be replaced, humans stay safe, and bears do not need to be removed. This is more efficient and economical.

Concerning Adoption of New Rules I through XIII

New Rule III

All grizzlies taken or killed should count toward the quota of bears taken in response to conflicts. The rule states that bears taken by livestock owners count toward the quota, but bears taken by the Department, Wildlife Services, or by a person in self-defense do not. Bears killed by livestock owners should not be separated from those killed by the Department or Wildlife Services, especially when all individuals and entities are taking bears for the same reason (responding to livestock conflicts). A quota is meaningless if all kills do not contribute to it. Not only are quotas not accounting for all bears removed, but they can be adjusted by the Commission ((1)(6)). More information needs to be added to this rule to specify situations in which it is appropriate to adjust the quota. Without adding detail, the quota is again made meaningless, as it can be changed, and guidelines for such changes are unclear.

New Rule IV

Section (1) states that the mortality threshold is the maximum number of bears the population “can withstand.” This phrase must be defined or reconsidered. As currently written, this provision implies that grizzly populations can be reduced to the recovery level, which would allow for huge reductions in the population. Sitting at or near the recovery level (a low population of bears) would also create bigger risk of re-listing the species, creating unhealthy populations, and reducing natural connectivity potential between populations.

New Rule VII

Again, we thank the Commission for adding (3)(c) to this rule to promote proactive conflict prevention over reactive lethal control. There is still opportunity to improve this rule by further prioritizing the use of conflict prevention tools and methods, like under sections (1) and (2).

Beyond being able to further emphasize conflict prevention, New Rule VII contains multiple vague definitions about lethal management that should be defined in detail under New Rule I. In section (2), “attacking” should be changed to “physically attacking” and provide specific behaviors that constitute an attack. In section (3)(a), “threatens” and “poses a threat” are again overly vague and can be broadly interpreted and applied to allow for the removal of more bears.

Additionally, within this rule, any take of a bear should be reported immediately. The 24-hour period to notify the Department ((5)(a)) that a grizzly has been killed should be shortened to the day of the killing, or, if after business hours, by noon of the next day. Lastly, concerning section (7), consistent with comments above about New Rule IV, any deaths should be counted toward both the mortality threshold and quota.

New Rule VIII

Within section (1)(a), we request that scare devices (which include flashing lights and alarms) be added to the list of husbandry practices. Throughout our work, we have found scare devices to be an effective and invaluable tool for preventing conflicts. We also ask that “removing other nearby attractants” be added to this list, as an inclusive approach to attractant management creates less overall potential for conflict.

We also ask that section (1)(f) be placed first on this list of preventative measures. This provision of working with individuals and partnering with groups and agencies is at the core of conflict prevention work. Individual landowners and livestock owners and other groups and agencies are the ones responsible for using on-the-ground tools and putting prevention methods into practice.

New Rule XI

In publishing an annual report, in addition to publishing the “number, types, and locations of human-bear conflicts” ((2)(e)), the outcome of conflicts; tools used, not used, or put in place; and attractants in the area and that may have led to the conflict should also be listed. Including this information will create a more holistic understanding of the conflicts and what can be done to prevent similar situations in the future.

New Rule XII

This rule should be removed. Rather than using resources to capture and move bears (which would have to be done in perpetuity) from one population to another, bears should be managed to allow for natural movement between populations. This can be accomplished by promoting and applying conflict-prevention methods in grizzly travel corridors between recovery zones. Translocating bears creates a false impression of healthy, connected populations, as island populations can remain and reactive killing of bears dispersing from recovery zones can occur at high rates. Genetically healthy and resilient populations of bears require connected populations.

We appreciate all of your work on behalf of Montanans. Please let us know if you have any questions about our comments. Thank you for the opportunity to share our input.

On behalf of People and Carnivores, and Sincerely,

A handwritten signature in cursive script, appearing to read "L. Upson".

Lisa Upson,
Executive Director

Montana Fish, Wildlife and Parks' Recommended Adoption of Administrative Rules of Montana to the Fish, Wildlife and Parks Commission – Pre-Secretary of State Adoption, Amendment or Repeal Process

To: All Concerned Persons.

Re.: Adoption of ARM's Re. Grizzly Bear Management.

The rules as proposed to be adopted provide as follows:

NEW RULE I – DEFINITIONS

(1) "Authorized person" means any individual given written or verbal authority by the livestock owner, or who is authorized by name on a permit to take a grizzly bear. This does not include Department staff or Wildlife Services' staff.

(2) "Confirmed grizzly bear mortality" means a situation where a grizzly bear carcass is present.

(3) "Demographic Monitoring Area" or "DMA" is the area within which the grizzly bear population is monitored, where population estimates are derived, and within which the mortality threshold will apply.

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

(5) "Department director" means Montana, Fish, Wildlife and Parks' Director, or the Director's designee.

(6) "Investigate" or "Investigation" means a fact-gathering and analytical activity conducted to determine the facts relating to a reported incident and to assess a fitting non-lethal or lethal management response.

(7) "Nonlethal measures" means actions that are not intended to injure or kill a grizzly bear.

(8) "Preventative measures" means actions that are intended to prevent or reduce conflict.

(9) "Probable grizzly bear mortality" means a situation where there is sufficient evidence of grizzly bear blood, hair, and other grizzly bear tissues, to support a finding of death.

(10) "Take" or "Taken" means the killing of a grizzly bear by firearm.

(11) "Wildlife Services" means the United States Department of Agriculture – Animal Plant and Health Inspection Service.

Commented [CH1]: Might be confusing as "take" under ESA includes injure, harass, etc. Suggest revising to "lethal take"

NEW RULE II – GRIZZLY BEAR MANAGEMENT OBJECTIVE

(1) The Department will implement management strategies to assure that grizzly bears continue to thrive and are integrated as a valuable part of Montana's wildlife heritage. The Department will manage grizzly bears, to ensure that recovery is maintained. The Department's grizzly bear management objective is to maintain and enhance Montana's contribution to the grizzly bear population in the lower-48 states and the grizzly bear's connectivity between populations in and outside Montana.

NEW RULE III – THE QUOTA AND ESTABLISHING AND ADJUSTING THE QUOTA

(1) For each delisted ecosystem, the Commission will establish an annual quota for the number of delisted grizzly bears that may be taken by a livestock owner or other authorized person, whether permitted or not, pursuant to § 87-5-301, MCA. The Commission shall consider relevant factors, including information provided to the Commission by the Department in the

Montana Fish, Wildlife and Parks' Recommended Adoption of Grizzly Bear ARM's Re. Grizzly Bear Management

grizzly bear annual report, the most recent grizzly bear population estimate, the mortality threshold, and previous quotas.

(2) Grizzly bears taken by the Department, Wildlife Services, or an individual person in self-defense, do not count towards the quota.

(3) Information concerning the quota will be made public via the Department's website.

(4) When the quota is met, the Department will make a public announcement, via its webpage and social media page. The quota will officially close at 11:59 p.m., the same day the Department's notice is made.

(5) Any grizzly bear taken after the quota is closed, may be subject to criminal penalties, pursuant to §§ 87-6-201, 87-6-413, 87-6-905 and 87-6-907, MCA, as applicable, and the deceased bear(s) will be recognized in determining the next years available quota.

(6) If the Commission determines that circumstances require an adjustment to the total number of grizzly bears taken, pursuant to § 87-5-301(3), MCA, then it may, at any time prior to the quota being met, adjust the quota.

(7) If the Commission determines that circumstances require an adjustment or suspension on the total number of grizzly bears taken pursuant to § 87-5-301(3), MCA, then it may, at any time prior to the quota being met, issue a moratorium on the take of grizzly bears under the quota.

Commented [CH2]: Clarify that the quota will only apply to areas delisted. How will public know? Map and messaging?

Quota should be established by den exit (Feb 1 to be safe) and be valid through December 31.

NEW RULE IV – THE MORTALITY THRESHOLD

(1) The mortality threshold(s) is/are the maximum annual number of grizzly bear mortalities, within the DMA, that the population(s) can withstand without falling below recovery levels.

(2) All grizzly bear mortalities within the DMA will count toward the relevant mortality threshold(s).

(3) Information concerning the mortality threshold will be made public via the Department's website.

Commented [CH3]: Suggest revise to: "below recovered levels as outlined in the most recent version of the Conservation Strategy"

NEW RULE V – GRIZZLY BEAR MORTALITIES THAT APPLY TO THE QUOTA AND THE MORTALITY THRESHOLD

(1) A delisted grizzly bear taken within the DMA, pursuant to § 87-5-301(3) and (4), MCA, counts towards the quota and the relevant mortality threshold.

(2) The quota and the total mortalities counted towards the mortality threshold include confirmed or probable grizzly bear mortalities.

(3) If a female grizzly bear with a cub or cubs of the year is taken, both the female grizzly bear and the cub(s) will count towards the quota. If the mortalities are within the DMA, they will also count towards the mortality threshold.

Commented [CH4]: AND

NEW RULE VI – IF A DELISTED GRIZZLY BEAR POPULATION OVERLAPS TWO OR MORE STATES

(1) If a delisted grizzly bear population overlaps two or more states, the mortality threshold will be apportioned by a percentage allocated to each state involved, and the quota will consider the percentage allocated to Montana.

NEW RULE VII – ALLOWABLE LETHAL MANAGEMENT OF THE GRIZZLY BEAR

Montana Fish, Wildlife and Parks' Recommended Adoption of Grizzly Bear ARM's Re. Grizzly Bear Management

(1) [The Commission authorizes the Department to use lethal control of depredating grizzly bears.]

(2) Pursuant to § 87-5-301(3), MCA, a livestock owner or other authorized person may take, without a permit or license, a grizzly bear that is attacking or killing livestock. Take by a livestock owner or other authorized person is limited to those areas that a livestock owner's livestock are legally authorized to be.

(3) Pursuant to §§ 87-5-301(4) and 87-6-106(4), MCA, the Department director may issue a permit to a person, livestock owner, or other authorized person, to take a grizzly bear, under the following circumstances and conditions:

- (a) When the Department makes the determination that the grizzly bear is threatening livestock or poses a threat to humans; and,
- (b) When the Department makes the determination that the grizzly bear was not purposefully or intentionally fed or baited.

(4) A permit issued pursuant to §§ 87-5-301(4) and 87-6-106(4), MCA, to a person, livestock owner, or other authorized person must identify the following:

- (a) The permittee's name;
- (b) The permit's duration and expiration date;
- (c) The geographic area the permit is valid;
- (d) The rationale for issuing the permit; and
- (e) That the permit is applicable to one delisted grizzly bear.

(5) If a person, livestock owner, or other authorized person, whether permitted or not, takes or injures a grizzly bear, pursuant to §§ 87-5-301(3), (4) or 87-6-106(4), MCA, they shall:

- (a) Notify the Department within 24 hours;
- (b) Leave the grizzly bear carcass, if any, where it lay;
- (c) Preserve the area the shot was taken from;
- (d) Preserve the area surrounding the grizzly bear carcass, if any; and,
- (e) Surrender the grizzly bear carcass, if any, to the Department.

(6) A person, livestock owner, or other authorized person, who purposefully injures or kills a grizzly bear by any other means, besides a firearm, is subject to criminal penalties, pursuant to § 87-6-201, MCA.

(7) Pursuant to §§ 87-5-301(4)(b) and 87-6-106(4), MCA, the Department has the discretion to lethally remove a grizzly bear. If a grizzly bear is lethally removed by Department or Wildlife Services staff, after conducting an on-site investigation, the grizzly bear does not count towards the quota. However, if the lethal removal occurred inside of the DMA, the grizzly bear will count towards the mortality threshold.

Commented [CH5]: Specify throughout, "where delisted", the commission authorizes lethal control vs, where bears remain listed, "FWS and 4d rule authorize lethal control"

NEW RULE VIII – ALLOWABLE NONLETHAL MEASURES OR PREVENTATIVE MEASURES OF THE GRIZZLY BEAR

(1) As allowed by §§ 87-5-301 and 87-6-106(4), MCA, control of the grizzly bear includes a variety of nonlethal measures or preventative measures intended to decrease risk of, prevent, or resolve a conflict without killing the grizzly bear in question. Allowable nonlethal measures or preventative measures include, but are not limited to:

- (a) Husbandry practices, including, but not limited to, electric fencing, increased human presence, herding or guarding animals, night pens, carcass removal, alternative pastures, amended pasture or grazing rotations, or supplemental feed;

- (b) The Department's placement of a radio collar to facilitate increased monitoring of the grizzly bear;
- (c) Hazing in a non-injurious manner;
- (d) Intentional harassment;
- (e) Electric fencing of bone yards;
- (f) Working with interested individual livestock owners and private landowners, watershed groups, interested groups, state and federal land managing agencies, to provide technical assistance and to assist with selection and implementation of proactive nonlethal controls on both public and private lands when and where livestock are present, either seasonally or yearlong; and,
- (g) The Department's capture and relocation of the grizzly bear.

NEW RULE IX – BAITING GRIZZLY BEARS & NORMAL LIVESTOCK OPERATIONS

(1) A person may not intentionally bait a grizzly bear. Normal livestock operations are not considered baiting.

NEW RULE X – REQUIREMENT TO MANAGE ANY DELISTED GRIZZLY BEAR POPULATION FOR FIVE YEARS PRIOR TO A HUNTING OR HARVEST SEASON

(1) The Department shall manage any delisted grizzly bear population for five years prior to proposing any hunting season or harvest for grizzly bears.

NEW RULE XI – GRIZZLY BEAR ANNUAL REPORT

(1) The Department shall generate and publish a grizzly bear annual report starting the first year after either the Northern Continental Divide Ecosystem or the Greater Yellowstone Ecosystem is delisted and will continue thereafter.

(2) The grizzly bear annual report will include:

- (a) The population estimate and previous years' mortalities for delisted populations;
- (b) The methods used by Department personnel to monitor grizzly bears and develop population estimates;
- (c) Information concerning connectivity and genetic exchange between the Northern Continental Divide Ecosystem and the Greater Yellowstone Ecosystem;
- (d) Description of mortality sources and potential for future population level impacts;
- (e) The number, types, and locations of human-bear conflicts; and
- (f) Outreach and education efforts made by the Department;

NEW RULE XII – GENETIC AND POPULATION AUGMENTATION

(1) Upon delisting, the Department shall continue to translocate grizzly bears between the Northern Continental Divide Ecosystem, the Greater Yellowstone Ecosystem, and other grizzly bear populations for genetic and population augmentation. The Department will continue to conduct genetic sampling, as necessary, when handling bears, will analyze those samples to evaluate genetic diversity and connectivity between populations and the need for continued efforts.

NEW RULE XIII – DATE OF EFFECT AND APPLICABILITY

(1) Administrative Rules of Montana _____ to _____ only apply to grizzly

bear populations that have been delisted by the United States Fish and Wildlife Service and take effect upon the date that said populations are delisted and no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et. seq.



Protecting Montana's wildlife, land, waters, and hunting & fishing heritage for future generations.

November 12, 2023

To: Montana Fish and Wildlife Commission

RE: Comment on Amendments to Administrative Rules of Montana (ARM) addressing Grizzly Bears

I write to you on behalf of the Montana Wildlife Federation (MWF). We are Montana's oldest and largest statewide conservation organization, founded in 1936 by dedicated hunters, anglers, conservationists, and landowners.

The Montana Wildlife Federation wishes to comment on the following sections of the proposed ARM:

12.9.1401(1) (c) (ii). Sport hunting is considered the most desirable method of balancing grizzly bear numbers with their available habitat, minimizing depredations against private property within or adjacent to grizzly bear habitat, and minimizing grizzly bear attacks on humans."

Comment: The proposed ARM states: "*Sport hunting is considered the most desirable method of balancing grizzly bear numbers with their available habitat, minimizing depredations against private property within or adjacent to grizzly bear habitat and minimizing grizzly bear attacks on humans*".

This sentence contains three factually incorrect statements:

1. Sport hunting will balance grizzly bear numbers with their available habitat.
2. Sport hunting will minimize depredations against private property within or adjacent to grizzly bear habitat.
3. Sport hunting will minimize grizzly bear attacks on humans.

None of these statements are true.

Making such misleading and factually incorrect statements as a justification for sport hunting grizzly bears discredits FWP, discredits the Commission, and discredits the concept of sport hunting grizzly bears. Use of such intentionally deceptive or completely uninformed statements calls into question the credibility and reliability of FWP as the future manager of delisted grizzly bear populations, and the legitimacy of the entire ARM process.

None of these statements are true. Specifically:

Sport hunting will not balance grizzly bear numbers with their available habitat. Sport hunting of grizzly bears will only involve a very small number of bears each year and some years likely no bears will be killed at all. A small number of bears killed by sport hunters will have no measurable impact whatsoever on "*balancing the number of*



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grizzly bears with their available habitat". The fact that only a few bears would be taken by sport hunters was clearly stated by FWP's Ken McDonald in an article in Montana Outdoors in June of 2023 where he said: "Even if hunting is reinstated down the road, the harvest quota would be small – likely just a few bears per year".

Sport hunting will not minimize depredations against private property within or adjacent to grizzly bear habitat.

The idea that sport hunting will minimize depredations against private property is not supported by facts or science and is contrary to the published scientific literature on the relationship between sport hunting bears and human-bear conflicts. Hunting of bears has been documented in the peer-reviewed scientific literature to not reduce human-bear conflicts as stated by Obbard et al. (2014)¹ who found: "*Human-bear conflict was not correlated with prior harvests, providing no evidence that larger harvests reduced subsequent human-bear conflicts. Given that variation in natural foods, harvest is unlikely to prevent elevated levels of human-bear conflicts in years of food shortage unless it maintains bears at low densities – an objective that might conflict with maintaining viable populations and providing opportunities for sport harvest.*"

The Montana Governor's Grizzly Bear Advisory Council said in their final report on p. 18: "*...hunting is not likely to be an effective tool for conflict prevention or reduction*".²

A recent study³ also demonstrated that sport hunting³ of bears did not reduce human-bear conflicts even though bear harvest increased significantly. The authors stated: "*Human–bear interactions, incidents, and harvest were strongly related to the availability of natural foods in all analyses. Regulated, presumably sustainable harvest was ineffective at reducing human–bear interactions and incidents in the near-term and might have increased both. Our results support a long history of research showing that natural food availability is a primary driver of human–wildlife conflict. Programs promoting coexistence between people and wildlife, including education, capacity building, and management of unnatural food sources are likely to be the most successful at reducing conflicts between people and bears.*"

Sport hunting will not minimize grizzly bear attacks on humans.

¹ Obbard, M. E., E. Howe, L. L. Wall, B. Allison, R. Black, P. Davis, L. Dix-Gibson, M. Gatt and M. N. Hall. 2014. Relationships among food availability, harvest, and human-bear conflict at landscape scales in Ontario, Canada. *Ursus* 25:98-110. <https://doi.org/10.2192/URSUS-D-13-00018.1>

² Governor's Grizzly Bear Advisory Council. 2020. Final Report: Recommendations and input on the future of grizzly bear management and conservation in Montana. Montana Fish, Wildlife and Parks, Helena, MT. 28 pp. <https://fwp.mt.gov/aboutfwp/commission-councils-committees/grizzly-bear-advisory-council>

³ Northrup, J. M., E. Howe, J. Inglis, E. Newton, M. E. Obbard, B. Pond, and D. Potter. 2023. Experimental test of the efficacy of hunting for controlling human-wildlife conflicts. *Journal of Wildlife Management* <https://doi.org/10.1002/jwmg.22363>



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Most grizzly bear attacks on humans are due to random surprise encounters between bears and humans, or to bears that have become food conditioned to human-related foods such as garbage⁴ and thus spend time near human dwellings. Sport hunting a few grizzlies each year will not reduce the possibility of a surprise encounter between a bear and a human over thousands square miles of grizzly range. Sport hunting of grizzly bears will not occur around garbage containers or near homes or buildings where humans and garbage-conditioned bears might encounter each other. Sport hunting does not “teach” bears to avoid people because bears killed by hunters do not “learn” anything. Bears are solitary animals except for family groups of females with cubs, which are not legal to hunt. The death of a bear from sport hunting has no connection to the behavior of other bears.

In summary, placing new or enhanced ways to kill bears into bear habitat such as sport hunting or permits to landowners to kill bears that are “threatening” livestock or seem “threatening” to some people will not reduce human-bear conflicts. Instead, there should be enhanced efforts to help residents reduce or bear-proof attractants and promote successful coexistence. This will result in fewer dead bears and will reduce numbers of human-bear conflicts. Without enhanced efforts to reduce or bear-proof attractants, bears will continually be drawn into human use areas by unsecured attractants no matter how many are removed in management actions or how many permits to kill bears FWP issues to landowners. FWP, through their bear management specialists, in partnership with local groups, should be the leaders in efforts to bear-proof attractants and in assisting landowners in securing such attractants so they can minimize the number of bears attracted to their property and thereby reduce human-bear conflicts.

The Montana Wildlife Federation believes this ARM should be revised in section (ii) to say:

“The most desirable and proven method to reduce both human-bear conflicts and grizzly bear attacks on people is to work with local residents on outreach and education, capacity building to secure and bear-proof attractants, and to manage unnatural human-related food sources that bring bears into close association with people.”

NEW RULE VII (ARM 12.9.1410) ALLOWABLE LETHAL MANAGEMENT OF GRIZZLY BEARS (3) (a) when the department makes the determination that the grizzly bear is threatening livestock or poses a threat to humans.

⁴ Gunther, K. A. 2023. Bear-caused human fatalities in Yellowstone National Park: Characteristics and trends. Human-Wildlife Interactions, *in press*.



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COMMENT: The words “threatening” and “threat” are subjective words that mean different things to different people. MWF testified during the hearings on SB 295 and objected to the use of such an undefined and subjective word “threat” in this bill as a justification to lethally kill grizzly bears. Some people may view grizzly bears as a threat at hundreds of yards while others may believe there is no threat unless a bear is very close to livestock or people. This ARM has a section on definitions, but the word “threat” is conspicuously absent from this definition list. The word threat is variously defined as a “declaration of an intention or a determination to inflict harm on another”. SB 295 and this ARM requires the department to use this word to make an irretrievable commitment to kill a grizzly bear after the fact, as if the department can judge the intention of a grizzly bear.

The Montana Wildlife Federation believes that at the very least, the word “threat” should be clearly defined in the ARM. There should also be realistic examples of grizzly bear distance from and behavior around livestock or humans, and recurrence of such behaviors that could be used as criteria to judge if a grizzly bear is an actual threat or has just been seen in the same general area as livestock or humans.

NEW RULE III (ARM 12.9.1406) THE QUOTA AND ESTABLISHING AND ADJUSTING THE QUOTA (1) For each delisted ecosystem, the commission will establish an annual quota for the number of delisted grizzly bears that may be taken by a livestock owner or other authorized person, whether permitted or not, pursuant to 87-5-301, MCA. The commission shall consider relevant factors, including information provided to the commission by the department in the grizzly bear annual report, the most recent grizzly bear population estimate, the mortality threshold, and previous quotas.

(2) Grizzly bears taken by the department, wildlife services, or an individual person in self-defense do not count towards the quota.

(6) If the commission determines that circumstances require an adjustment to the total number of grizzly bears taken, pursuant to 87-5-301(3), MCA, then it may, at any time prior to the quota being met, adjust the quota.

COMMENT: This section sets no biological criteria to be used by the Commission to set a quota or to adjust the quota of how many bears may be killed by livestock owners whether permitted or not. Further, this section exempts from this quota any grizzly bears taken by the department, Wildlife Services, or an individual person in self-defense. There is no biological basis or criteria in this ARM for the Commission to set such a quota or to adjust such a quota or an explanation of why some mortalities are exempt from such a quota. This establishes an arbitrary and undefined system where the Commission can set or adjust mortality quotas independent of any criteria. This is hardly



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a system that builds public confidence that this ARM is based on science and facts when it comes to limiting permits issued to private individuals to kill grizzly bears. As written, the Commission can set such quotas as they see fit instead of basing such mortalities on some specific and objective criteria to achieve some specific population objective.

The Montana Wildlife Federation suggests the addition of specific and objective biological criteria that would be the criteria used by the Commission to publicly and openly set the number of such permits issued and used to adjust the quota if such an adjustment is within these criteria. The Montana Wildlife Federation further suggests that there be a clear biological explanation of why this section exempts from this quota any grizzly bears taken by the department, Wildlife Services, or an individual person in self-defense.

NEW RULE IV (ARM 12.9.1407) THE MORTALITY THRESHOLD (1) The mortality threshold(s) is/are the maximum annual number of grizzly bear mortalities, within the DMA, that the population(s) can withstand without falling below recovery levels.

(2) All grizzly bear mortalities within the DMA will count toward the relevant mortality threshold(s).

(3) Information concerning the mortality threshold will be made public via the department's website.

COMMENT: The current system used to estimate the population size in the NCDE includes all grizzly bears inside and outside the NCDE DMA⁵. Many bears live in both inside the NCDE DNA and outside the NCDE DMA. These bears go in and out of the DMA as part of their normal annual movement patterns. This means there is no distinct grizzly population inside the NCDE DMA. Thus, any grizzly bears killed for any reason inside or outside the NCDE DMA including as part of a permit system to private individuals to kill bears or any grizzly bears killed by the department, Wildlife Services, or an individual person in self-defense should count against the total number of mortalities in the entire NCDE. As written, this ARM exempts certain mortalities as if these mortalities do not have an impact on the health and trajectory of the entire NCDE population. This is biologically indefensible.

⁵ See p. 10 in:

https://fwp.mt.gov/binaries/content/assets/fwp/conservation/bears/ncde_grizzly_population_trend_report_2022_20230828.pdf



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The Montana Wildlife Federation suggests this ARM should clearly state that there is no population estimate just for the NCDE DMA area and that all bears inside and outside the DMA are currently counted as one population. This ARM should also clearly state that all mortalities from all sources inside or outside the NCDE DMA impact the health and trajectory of the entire NCDE population. This information should be used to clearly explain: 1) how the Commission will establish a quota and the method and criteria for doing so for permitted grizzly kills under SB 295; 2) the biological justification for exempting some mortalities from this quota setting process; and 3) that every mortality from all sources inside and outside the NCDE DMA will have an impact on the health and trajectory of the NCDE population.

NEW RULE V (ARM 12.9.1408) GRIZZLY BEAR MORTALITIES THAT APPLY TO THE QUOTA AND THE MORTALITY THRESHOLD (1) A delisted grizzly bear taken within the DMA, pursuant to 87-5-301(3) and (4), MCA, counts towards the quota and the relevant mortality threshold.

(2) The quota and the total mortalities counted towards the mortality threshold include confirmed or probable grizzly bear mortalities.

(3) If a female grizzly bear with a cub or cubs of the year is taken, both the female grizzly bear and the cub(s) will count towards the quota. If the mortalities are within the DMA, they will also count towards the mortality threshold.

COMMENT: The counting of mortalities in this section of the ARM counts only known and probable mortalities and does not count the estimated number of unknown/unreported mortalities. This differs significantly from the method used by FWP in their annual reports on grizzly bear population monitoring in the NCDE.⁵ The method used in FWP reports to estimate if grizzly bear mortalities exceed mortality limits includes a Bayesian estimate of the total number of reported and unreported deaths of non-radioed bears (Cherry et al. 2002 and Costello et al. 2016). This method used by FWP is described on p. 10 of the FWP report cited in footnote 5 (below) is: *"We estimated numbers of TRU mortalities of independent female and male grizzly bears within the DMA and assessed thresholds using an average for the last 6 years. For each sex, the number of TRU mortalities was the sum of: the count of agency sanctioned management removals; the count of known or probable deaths of bears wearing functional radio-transmitters (excluding those that were agency removals); and an estimate of the numbers of other mortalities that were or were not reported or discovered."*

⁵ See pp.10-13 and Table 5 and Figure 2 and Figure 5 in:

https://fwp.mt.gov/binaries/content/assets/fwp/conservation/bears/ncde_grizzly_population_trend_report_2022_20230828.pdf



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Was the intention of this ARM to no longer count the estimated unknown and unreported mortalities, and if so, what is the justification for this? It is well documented that there are a certain number of grizzly bear mortalities that go unreported. Agency scientists have developed methods to estimate these unknown/unreported mortalities so they can be accounted for in mortality management decisions. Table 5 (shown below) in the FWP report cited in footnote 5 clearly shows how this mortality count is done by FWP.

Table 5. Summary of independent grizzly bear mortalities within the DMA, NCDE, 2022.

Sex	Documented mortalities by method of discovery				Estimated reported and unreported ^e (C)	Estimated total mortality (A + B + C)
	Agency removal ^a (A)	Telemetry ^b (B)	Reported ^c (high)	Reported ^d (low)		
Female	8	1	3	0	4	13
Male	10	2	5	0	7	19
Total	18	3	8	0	11	32

^a Count of agency removals, including those involving radio-marked bears. ^b Count of deaths for bears wearing functional radio-transmitters, except for agency removals. ^c Count of non-radioed bear deaths reported by the public or discovered by agency personnel with high reporting rates (illegal defense-of-property, defense-of-life, train collision, automobile collisions, illegal hunting-misidentification). ^d Count of non-radioed bear deaths reported by the public or discovered by agency personnel with low reporting rates (poaching/malicious, natural, undetermined). ^e Bayesian estimate of the total number of reported and unreported deaths of non-radioed bears (Cherry et al. 2002 and Costello et al. 2016).

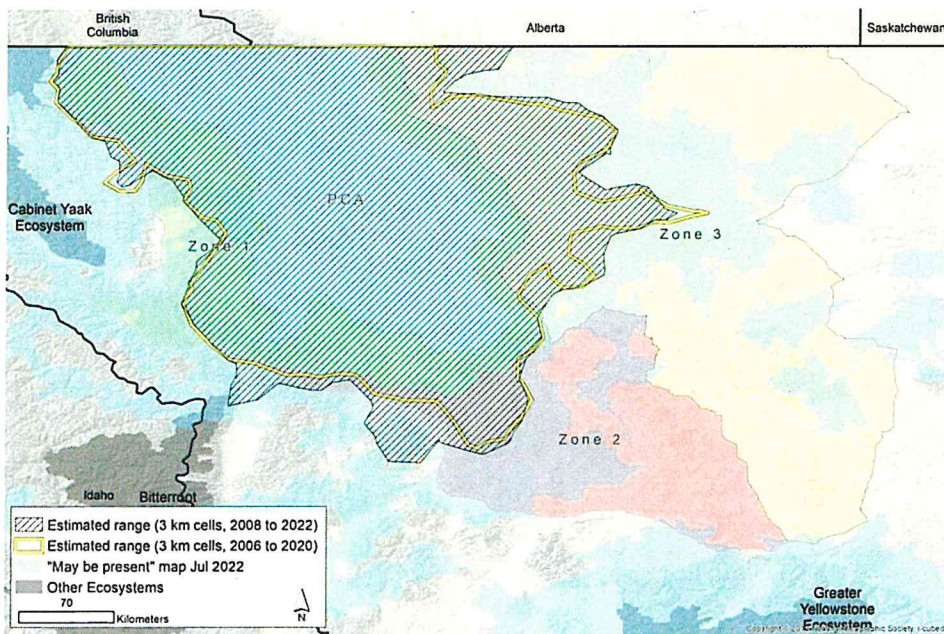


Figure 5. Occupied range of the NCDE grizzly bear population during 2008–2022 (and during 2006–2020 for comparison), as estimated by applying zonal analysis and ordinary kriging to 3x3-km cells with verified grizzly bear locations during the 15-year window. The “may be present” map shows the known extent of occurrence within watersheds, including those where outlier observations were verified. Zones as described in Fig. 1.



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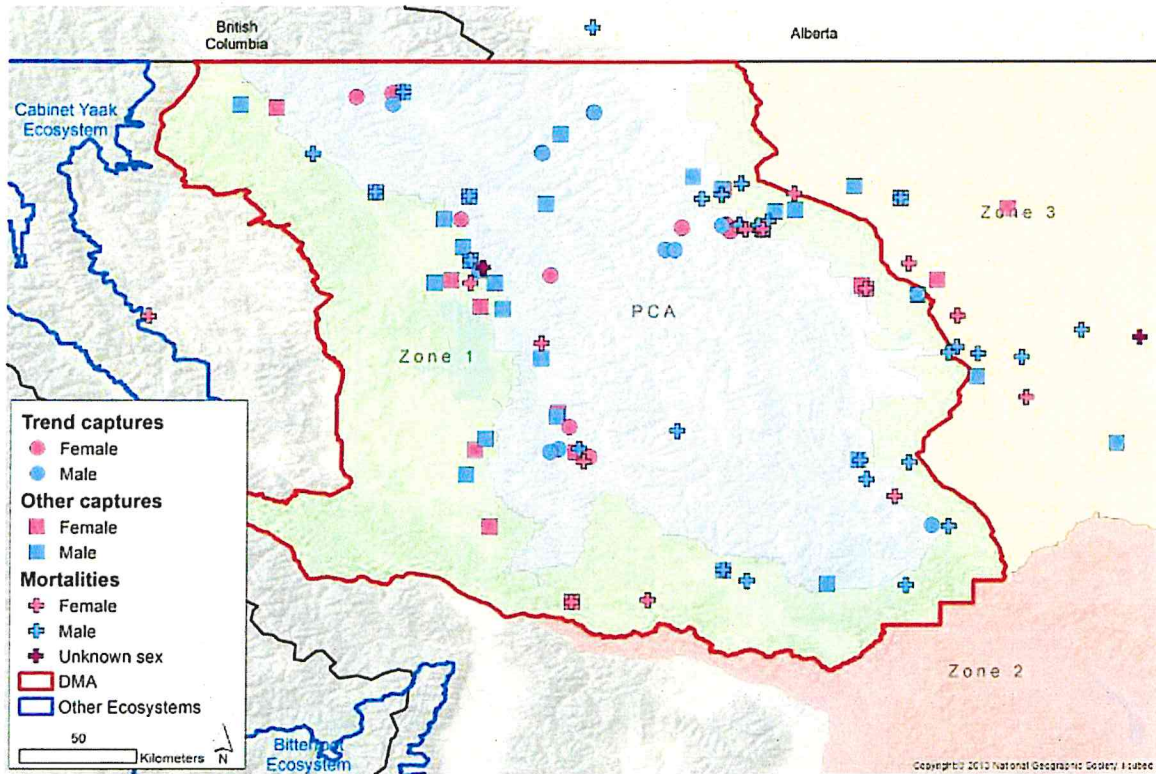


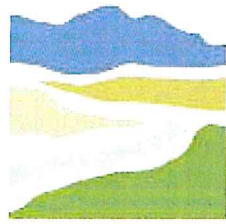
Figure 2. Location of captures and mortalities of grizzly bears in the NCDE, 2021. Zones as described in Fig. 1.

The Montana Wildlife Federation strongly suggests that this ARM clearly state that grizzly mortalities that apply to the quota and the mortality threshold include known and probable mortalities as well as the calculated estimate of unknown and unreported mortalities that FWP uses in their annual grizzly bear population monitoring reports.

Thank you for the opportunity to comment on this proposed ARM.

Sincerely,

Christopher Servheen, Ph.D.
President and Board Chair



RUBY VALLEY STRATEGIC ALLIANCE

November 17, 2023

Submitted via email to: fwpwd@mt.gov

Wildlife Division
ATTN: Grizzly Bear ARM
Montana Fish, Wildlife and Parks
P.O. Box 200701
Helena, MT 59620-0701

Re: Grizzly Bear ARM- new rules and amendments

Dear Director Temple and Montana Fish and Wildlife Commission,

Thank you for the opportunity to comment on the draft grizzly bear ARM and ARM 12.9.1401 amendment, hereafter referred to as 'the draft grizzly ARM' or 'draft rules'. The Ruby Valley Strategic Alliance (RVSA) is a diverse alliance of individuals and organizations that finds common ground through shared conservation values for the greater Ruby landscape. We strive to maintain and enhance the stewardship of working ranches and public lands. In our landscape, working ranches and public lands are inextricably tied and we believe management decisions about both can be strengthened through lasting partnerships. We value maintaining and enhancing our working lands, outdoor way of life, wilderness heritage, quiet country, and high-quality recreation experiences. The RVSA works collaboratively on a foundation of trust to respond to threats to our values, advocate for the places and way of life we cherish and promote positive stewardship of the Ruby Valley. Our group includes the Ruby Valley Stock Association, Madison County Commission, Ruby Dell Ranch, Ledford Creek Grazing Association, Warm Springs Grazing Association, Helle Livestock, Ruby Valley Conservation District, Ruby Habitat Foundation, Greater Yellowstone Coalition, Wild Montana, The Wilderness Society, and The Nature Conservancy, as well as several individual landowners and local natural resource advocates and organizations. The draft grizzly ARM impacts both the livelihoods of our members, as well as continued conservation of the iconic grizzly bear. Given fall is a particularly busy time for ranchers, we were relieved to see an adjustment to the public comment period deadline and hope that the change allowed for more meaningful public input around this prominent issue.

In 2020, the RVSA submitted comments on the Montana Grizzly Bear Advisory Council (GBAC) report. The RVSA's recommendations were the result of a year of meetings and discussions in our group about the challenges and conservation opportunities tied to an expanding grizzly population and accompanying conflicts. At the time, we noted our support for the work of the GBAC. The foundational

idea of our group is that conservation outcomes are most durable when people with a diversity of perspectives and interests come together to find solutions through common ground. We felt that the GBAC represented a diversity of Montanans, and we were strongly supportive of the objectives and guiding principles of the council. Since that time, we have continued to engage in public processes related to grizzly bear conservation and management. Most recently, the RVSA submitted comments on the Draft Montana Grizzly Bear Management Plan and EIS in February 2023.

Members of our group diverged in their perspectives on Senate Bill 295 during the 2023 Montana legislative session. Some of our members were supportive of the policy established by the bill, as they viewed it as a recognition of the impact that expanding grizzly populations have on their livelihoods. Other members in our group opposed the bill, as they believed the policy to be problematic for long-term grizzly conservation through its creation of another source of grizzly mortality without accompanying safeguards. Everyone in our group recognizes that lethal management of grizzly bears is sometimes a tool that is required to ensure human safety and address harmful conflicts. We also all understand that when grizzly bear removals are strategic in targeting chronic depredators, these actions can be better for the overall health of the grizzly population than allowing conflicts to persist and potentially propagate across generations of bears. That said, we have varied views on the appropriate role of citizens when it comes to lethal management of grizzly bears, especially in public land settings. We set these differences aside and used the draft grizzly ARM as an opportunity to have a robust discussion about how the policy set forth in Senate Bill 295 would translate into activities on the ground. Even on topics as controversial as citizen take of grizzly bears, our group of diverse interests can find common ground. We are proud to be submitting collaborative recommendations on the draft grizzly ARM.

There are three components of the draft grizzly ARM that we support:

- **Allowing citizens to take grizzly bears *in the act of* attacking or killing their livestock, as long as such take counts against annual quotas:** While this authorization already exists in MT statute, we wanted to highlight that this component of the draft grizzly ARM is a far less controversial allowance than authorizing citizens to take grizzly bears that are ‘threatening’ livestock, which could be interpreted widely. While the scenario of encountering a grizzly bear in the act of attacking or killing livestock is unlikely in open range grazing settings (especially in rugged country like the Gravelly Mountains), this authorization provides a reasonable tool for allowing people to protect their property and livelihoods and ensuring that grizzly bear take is targeted at depredators and thus strategic in alleviating the potential for persistent conflict. This allowance should not detract from the importance of also deploying non-lethal preventative measures, and we encourage the state to continue to play a significant role as a partner in conflict prevention efforts. Additionally, we encourage FWP to enhance educational information to the public regarding safety in grizzly bear country, with guidelines for citizens regarding allowable take and safety tips for incidences involving grizzly bears in the act of attacking or killing livestock.
- **Counting probable grizzly mortalities against the quota and mortality threshold for the relevant recovery ecosystem:** This is a prudent measure to ensure a conservative accounting of

grizzly bear mortality. Grizzly bears are slow to reproduce and as a result the difference between sustainable and unsustainable mortality for a population can be small. Commitments to a conservative approach to grizzly mortality management will help the state's endeavors to remove Endangered Species Act (ESA) protections and transfer management authority to the state. Under state management, it will be critical that the state's actions inspire confidence and trust in the state's commitment to sustained recovery of grizzly bears over the long-term.

- **5-year delay before implementing hunting season:** While some RVSA members do not support sport hunting of grizzly bears, we collectively recognize that hunting opportunities will be important to a portion of Montanans under future state management. In the event of a future hunting season, we agree that a hunting structure should not undermine the commitments of Montana Fish, Wildlife & Parks (FWP) to sustained recovery of grizzly bears and achieving connectivity between population cores. A 5-year delay prior to implementing a hunting season will provide an opportunity to evaluate grizzly mortality from other sources of management, such as take in defense of property. This evaluation period will be important for ensuring a successful and lasting transition to state management. Additionally, this policy to delay the initiation of hunting would demonstrate to the interested public that FWP is committed to ensuring sustained grizzly recovery over the long-term.

Recommendations for improving the draft grizzly ARM:

- **In general, there are components of the draft rule language lacking specificity and clarity that are critical for livestock producers seeking to legally deploy management tools. Additionally, certainty regarding rule implications is critical to evaluating the adequacy of regulatory mechanisms for ensuring sustainable management of grizzly bear mortality.** Specifically:
 - The meaning of the term 'recovery ecosystems' in the context of the draft rules is unclear. The rules state that grizzly take counts against the quota for a delisted recovery ecosystem when the mortality occurs within the Demographic Monitoring Area (DMA). Because the DMAs encompass smaller geographies than the recovery ecosystems they sit within, how will FWP ensure mortalities within a broader recovery ecosystem do not undermine conservation goals? Since the draft rules indicate that mortalities outside of DMAs will not count against a quota, how does a recovery ecosystem come into play regarding mortality limits and quotas? Clarification of this critical detail is important for our members to understand the implications of this policy.
 - The draft rules reference 'recovery levels' in regard to the goal of a mortality threshold. The term 'recovery levels' is vague and could reflect a variety of objectives. This is another example of management direction lacking clarity that would allow for the interested public to thoroughly evaluate the implications of the proposed policies.
 - The rule language should provide insight regarding how FWP will confirm the use of non-lethal preventative measures on public land grazing allotments prior to issuance of take permits. This information is critical for livestock producers seeking clarity on process, and important for evaluating whether the proposed requirement for use of non-lethal

preventative measures is both reasonable for livestock producers and effective in encouraging non-lethal conflict prevention efforts.

- The rule language lacks any elaboration on what constitutes ‘baiting.’ There are a variety of environmental factors that could lead to livestock mortality and the rules should clarify these circumstances do not constitute ‘baiting’ by the relevant livestock producer.
- The rule language alludes to quotas counting against mortality thresholds, and mortality thresholds informing quotas established for the year, but does not guarantee a cushion between the two numbers. Such a buffer is critical to accounting for inevitable grizzly mortalities resulting from agency management actions, natural causes, and unreported take. If the state has an interest in delisting grizzly bears, demonstration of adequate regulatory mechanisms for sustainably managing grizzly bear mortality is crucial.
- **The draft grizzly ARM should provide safeguards against excessive grizzly bear mortality in connectivity areas. Our rationale:**

The RVSA recognizes connectivity between grizzly bear recovery ecosystems is an important long-term conservation need for grizzly bears in the lower-48. We believe it is important that the state of Montana makes clear commitments to supporting connectivity for the long-term conservation of grizzly bears. We support FWP’s plans for using translocations as a tool to facilitate genetic connectivity, however, FWP should avoid this sort of conservation intervention and strive for achieving genetic connectivity through natural means. Commitments to natural connectivity between grizzly bear populations could reduce opposition from some portions of the public to transfer of grizzly bear management authority to the state. At the same time, our group recognizes the impacts of grizzly bear presence between recovery ecosystems on people and their livelihoods. In the past, we have grappled with this tension by urging the state to coordinate with federal and tribal partners to identify allowable grizzly mortality numbers outside of the DMAs, grounded in scientifically based objectives for meeting connectivity goals. We have argued that doing so would create certainty and transparency regarding conflict response protocol and use of lethal management as a tool to address conflict beyond the boundaries where mortality limits guide management.

The draft rule language around citizen-take of grizzly bears does not require that mortalities outside DMAs count against quotas. While this will provide certainty to livestock producers in their ability to use take as a conflict management tool outside DMAs within delisted ecosystems, this approach is too extreme. It is important that management direction captures a conservative approach that is consistent with the stated objectives for connectivity between grizzly bear populations within both the draft Montana grizzly bear management plan and the recommendations from the GBAC. Including connectivity areas within the geographies where grizzly bear mortalities apply against the take-quota could improve public opinion of- and trust in- the idea of state management. Establishing management direction that ensures citizen take in connectivity areas outside DMAs does not undermine conservation goals would give livestock producers a substantive regulatory framework to point to when faced with inevitable public criticism of their use of the tool. Importantly, safeguards for grizzly bears in connectivity areas are important to the long-term conservation success of the species in the lower-48 states.

- **The proposed process for citizen-take of grizzly bears ‘threatening’ livestock is too vague and unrealistic. It is worth weighing the potential consequences of this policy with the intended benefit.** The allowance of take permits for grizzly bears threatening livestock may negatively impact trust in both livestock producers and FWP by a portion of the interested public. This degradation of trust could create problems for livestock producers seeking to demonstrate their land stewardship ethic and secure public support for their operations. It could also inhibit the state’s endeavors to remove ESA protections for grizzly bears. Our rationale:

The ranchers in our group run livestock on large public land grazing allotments. In these open range settings, there are no silver-bullet-solutions to prevent depredations by grizzly bears. While the allowance of take of delisted grizzly bears in the act of attacking or killing livestock is a potentially helpful tool for the livestock producers in our alliance, the ability to secure a take permit following an incident of a grizzly bear ‘threatening’ livestock has little utility. It is difficult to imagine a scenario where a producer can effectively target a depredating grizzly bear and thus alleviate conflict if that person goes through the process of seeking approval from the FWP director for a permit following an incident of ‘threatening’ behavior. In the past, we have conveyed that all our members understand that strategic lethal removals of chronic depredators can improve long-term outcomes for both people and grizzly bears. However, the allowance of take permits for grizzly bears ‘threatening’ livestock would not be effective in targeting a chronic depredator because of the time that would pass between issuance of a permit and identifying and taking the bear in question. Not to mention the subjectivity tied up in the term ‘threatening’ that could result in the take of grizzly bears not actually causing conflict, thus establishing a system that is not strategic in alleviating conflict. While our members diverge in their ideas for how to address this challenge (e.g., ranging from issuing take permits for ‘threatening’ bears in advance of a grazing season to altogether removing the allowance of take permits for addressing ‘threatening’ behavior), we agree that this tool as described is likely not beneficial for livestock producers in an open-range grazing scenario.

Additionally, the term ‘threatening’ is vague and lacking clear definition. ‘Threatening’ is also a very subjective term- what one person perceives as a threat may not feel threatening to another. So, for some people it may be a rare occurrence to encounter a grizzly bear threatening their livestock, while for others it may happen more frequently. This lack of definition creates substantial uncertainty around the number of grizzly bears that might be removed because of this policy. This ambiguity is problematic because it weakens the state’s regulatory framework for sustainably managing grizzly bear mortality, thus undermining endeavors to delist grizzly bears.

In summary, the RVSA is supportive of the following elements to the proposed rule language:

- Allowing for take of grizzly bears in the act of attacking or killing livestock.
- Counting probable grizzly bear mortalities against the quota and mortality threshold.
- Encouraging use of non-lethal preventative measures.

- Requiring a 5-year post-delisting delay prior to implementing a grizzly bear hunting season.

To improve the draft rules, we recommend:

- Defining the terms 'recovery ecosystem' and 'recovery levels.'
- Clarifying the expectations regarding use of non-lethal preventative measures on public lands. As long as it is clear that the list of potential measures in the rule language is not comprehensive, and the process for verifying non-lethal preventive measures are in place prior to issuing a take permit is straightforward and efficient, we support the use of such measures as a requirement for being able to take grizzly bears on public land grazing allotments.
- Providing language clarifying that livestock death due to environmental factors (e.g., larkspur poisoning) does not constitute 'baiting' of grizzly bears by a livestock producer.
- Adding language indicating that established quotas will always be less than the state's mortality threshold within a given delisted ecosystem, to provide a buffer for agency related management mortalities, deaths from natural causes, and unreported take.
- Adding language indicating that mortalities within connectivity areas between recovery ecosystems should count against take quotas. The language should capture the intent to ensure mortality in these geographies does not undermine connectivity goals. The language should also acknowledge the impacts that grizzly bears may have on people in these places by allowing for additional flexibility beyond what is allowable within DMAs.
- Considering whether a process for issuing take permits for grizzly bears posing a 'threat' creates more problems than it solves. Take permits for grizzly bears 'threatening' livestock is likely not a useful tool for livestock producers who operate in our geography or similar landscape contexts, where grazing occurs on large and rugged public land allotments.

Conclusion:

All our members have a strong interest in ensuring that plans for future state management of grizzly bears help both people and bears thrive on shared landscapes. Strategic lethal removals of chronic depredators coupled with non-lethal preventative measures have proven effective in alleviating grizzly bear conflicts in our landscape. Allowing for take of grizzly bears in the act of attacking or killing livestock supports this approach but establishing a permit system for citizen take of grizzly bears 'threatening' livestock risks undermining effective management and efforts to restore state authority. We hope you will consider our recommendations, as we believe they would improve the proposed rule language. A robust state regulatory framework is a critical steppingstone toward restoring state management. We appreciate the opportunity to comment on the proposed new rules and amendments regarding grizzly bear management in Montana.

Sincerely,

Rick Sandru, Ruby Valley Livestock Association / Sandru Ranch

Audra Bell, Ruby Valley Conservation District
Chad Klinkenborg, Montana Land Reliance
Chris Edgington, MT Trout Unlimited
Dan Allhands, Madison County Commissioner
Dan Durham, Ruby Habitat Foundation
Emily Cleveland, Wild Montana
Gary Giem, Warm Springs Grazing Association / Giem Angus Ranch
George Trischman, Past President, Public Lands Council
Jim Berkey, The Nature Conservancy
John Anderson, Ruby Dell Ranch
John Helle, Helle Livestock
Kathryn Eklund, The Wilderness Society
Les Gilman, Gilman IH Cattle Co.
Neil Barnosky, Ledford Creek Grazing Association / Silver Spring Ranch
Sally Schrank, Greater Yellowstone Coalition