



# MONTANA FISH AND WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

THE **OUTSIDE** IS IN US ALL.

**Meeting Date:** Dec. 14, 2023

**Agenda Item:** Amendments to Administrative Rule of Montana (ARM) 12.9.1303 (Control Methods of the Gray Wolf Include Nonlethal and Lethal Means)

**Action Needed:** Final Approval

**Time Needed on Agenda for this Presentation:** 15 minutes

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**Background:** Current ARM 12.9.1303 addresses nonlethal and lethal control methods consistent with the Montana Gray Wolf Conservation and Management Plan. Given Montana's wolf management plan is being reviewed for potential changes and updates, and to exclude the notion that the wolf plan is a "rule," reference to the wolf plan should be removed.

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 April 18, 2023 meeting, the Fish and Wildlife Commission (Commission) approved the initiation of ARM rule making. Draft rule language was adopted by the Commission at their September 25, 2023 meeting.

**Public Involvement Process and Results:**

The public had opportunity to submit oral and written comments on the draft rule language after the draft rules were published in the Montana Administrative Register (MAR) on October 6, 2023, consistent with the Montana Administrative Procedure Act (MAPA) rulemaking process and the Secretary of State's (SOS) rulemaking procedure. The public received specific instructions, via the proposal notice, on how to submit written comments, as well as the date and method of participation for oral comments on the proposed draft rules/amendments. As per the proposal notice, a public hearing was held on November 3, 2023, and the public had the opportunity to submit comments until 5:00 p.m., on November 6, 2023. The comments received, written and oral, were summarized by FWP staff and a response was drafted for each summarized comment. The comments and responses become part of the official record and are included in the adoption notice for consideration by the Commission prior to any final action (including adoption/amendment) on the draft rules. The public was allowed to make oral comments at previous Commission meetings; however, any comments made previously are not considered part of the official rulemaking record (which is governed by the MAPA and SOS process), and will not be put in front of the Commission. 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 having gone through the formal MAPA/SOS rulemaking process be adopted as final?

**Alternatives and Analysis:** There are two alternative's that the Commission can take: 1) modify the language of ARM 12.9.1303, at which point the modification must proceed through the MAPA/SOS process again, or 2) leave ARM 12.9.1303 as it currently is. The latter option would not address the current rule reference to Montana's plan becoming outdated, nor would it address the notion that the Montana wolf plan is a "rule."



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**Agency Recommendation and Rationale:** FWP recommends the Commission adopt as final the department's proposed draft rule language addressing amendments to ARM 12.9.1303.

**Proposed Motion:** I move the Fish and Wildlife Commission adopt as final the department's proposed draft rule language addressing amendments to ARM 12.9.1303 as presented by the department.

**Alternative Motion:** I move the Fish and Wildlife Commission amend the department's proposed draft rule language addressing amendments to ARM 12.9.1303 as follows: (insert changes here).