



MONTANA FISH AND WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

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Meeting Date: Oct. 19, 2023

Agenda Item: Contractual Public Elk Hunting Access Agreements (EHA) Administrative Rules of Montana (ARM)

Action Needed: Decision to file administrative rule notice with secretary of state

Time Needed on Agenda for this Presentation: 15 minutes

Background: At its August 2023 meeting, the commission authorized FWP to draft updated rules for the Contractual Public Elk Hunting Access Agreements (EHA), which are governed by ARMs 12.9.901-12.9.911. The proposed changes remove outdated and unnecessary language and update the rules to reflect current practices and statutory requirements, including House Bill 596, which was passed by the 2023 Legislature. As proposed, repetitive statutory language and informational language that is better suited to inclusion in a department policy would be removed in accordance with the Governor's Red Tape Relief Project. The proposed rule notice indicates the reasons by section of ARM for the proposed changes. For additional referral, a supplemental copy of the proposed rule changes indicating which language is redundant to statute and which language would be moved into department policy is included in the meeting materials.

Public Involvement Process & Results: At its October meeting, the commission will decide whether to initiate rulemaking using the ARM revisions drafted by the department. The ensuing process and timeline are defined by the Montana secretary of state under the Montana Administrative Procedures Act (MAPA) for ARM. This includes the requirement that the department conduct a public hearing and solicit comments on behalf of the commission. The administrative rule notice would be posted on the FWP website and would include information on the timeline and the public hearing date. The department would provide a summary of the public comments (in addition to the comments in their original form) for the commission to consider when making a final decision at its December 2023 or February 2024 meeting.

Alternatives & Analysis:

Alternative A: Instruct the department to file an administrative rule notice with the secretary of state on behalf of the commission to propose updates to the rules governing EHAs to remove outdated and unnecessary language and update the rules to reflect current practices and statutory requirements.

Alternative B: Instruct the department not to file an administrative rule notice. Existing EHA rules would remain in place and include outdated and unnecessary language and rules that don't reflect current practices or statutory requirements.

Agency Recommendation & Rationale: FWP recommends the commission instruct the department to file the proposed administrative rule notice with the secretary of state to remove outdated and unnecessary language and ensure the ARMs are consistent with current practices and statutory requirements.

Proposed Motion: I move the Fish and Wildlife Commission instruct the department to file an administrative rule notice on behalf of the commission proposing updates to the rules governing Contractual Public Elk Hunting Access Agreements.