



MONTANA FISH AND WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

THE **OUTSIDE** IS IN US ALL.

Meeting Date: Sep. 25, 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: Initiate formal MAPA/SOS rulemaking process on the draft rules and amendments

Time Needed on Agenda for this Presentation: 15 minutes

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, any specific ARM reference to the first (current) wolf plan should be edited to represent the reality of plan evolution over time. This is not to suggest the resulting ARM would represent inconsistencies with any current wolf plan that has been developed and finalized with public participation.

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 rulemaking. During the August 17, 2023, meeting, the Commission voted on and approved draft rule language that was outdated, incorrectly formatted, and included reference to the "department's most current wolf management plan." Given active litigation concerning the wolf management plan, any reference to a wolf management plan is deleted. Moreover, the issues concerning formatting and outdated language are corrected.

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.

Alternatives and Analysis: The alternative to approving draft rule language on Sep. 25, 2023, would be to rescind the motion made on Aug. 17, 2023, and to leave the wolf ARM language as-is.



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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 hearing—on the department’s proposed draft rule language addressing amendments to ARM 12.9.1303.

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 proposed draft rule language addressing amendments to ARM 12.9.1303 as presented by the department.