

**FISH AND WILDLIFE COMMISSION MEETING
NOVEMBER 12, 2024**

Hello, I am Cassandra Rideg from Huson, Montana, in Region II. Thank you for the opportunity to comment. My entire family supports Montana FWP. We have a ranch with livestock. We have had every type of wildlife come through our place. We enjoy them all. However, we are seeing fewer and fewer of all species. We hunt and fish only for food. So, we don't condone trophy hunting and trapping. However, if this happens in Montana, I implore you to do this ethically, responsibly, and sustainably, which is not happening now. By Montana's hunting/trapping standards, you could hardly tell there is a species diversity crisis!!! Going at the rate we are going, all the megafauna will be gone by twenty-thirty!

I ask you to adjust wolf and carnivore trapping to benefit both consumptive and nonconsumptive Montanans. Wolves and other wildlife have tremendous value to all of us and the ecosystem they support.

First, there is no reason to manage wolves that do not depredate on livestock. One management option is to avoid managing. Interspecific pack conflict prevents the overpopulation of wolves. An excellent example of this is Yellowstone. The wolf population there hovers around 100 animals per year on average. That aside, if hunters and trappers do so for fur, have the season start November 1st when pelts at least have value. Before this time, there would be no purpose in hunting them; the carcass would be wasted, such as the fifth-collared Yellowstone wolf, who was gut-shot in W.M.U. 313 and left to suffer painfully and left to die.

My second bone of contention is the closing date of wolf Hunting/trapping season. Most canids breed in late winter (mid-February), are pregnant for two months, and give birth in April. At least for wolves, anyway. We should not kill canines during the breeding season because it jeopardizes offspring survival. Bred female foxes, coyotes, and wolves depend on both parents for survival during the denning/whelping period. I know you know this because, in your latest edition of the November - December issue of *Montana Outdoors*, Lee Lamb wrote an article on the Red Fox in the Outdoors Portrait. See included attachments. It states that "males (fathers) are the sole provider for the homebound nursing female." Killing wolves and canines during this time frame is not an acceptable practice.

Regarding Commissioner Barrows' proposal to reduce trapping setbacks, why are we going backward on safety? Montana FWP is not requiring trappers to put warning signs in the general location of traplines near trailheads on public land, and now we are allowing setbacks that are even closer to trails? Why not err on the part of public safety? Traps are dangerous to everything: the target animal, the non-target animal, people (children), pets, and livestock. We cannot put the 2,000 to 2,500 trappers before the safety of one million residents of this state.

Thank you!

Sincerely,
Cassandra Rideg

areas and forest edges, and may den in disturbed areas near human habitation.

DENNING AND REPRODUCTION

Red foxes den only during the breeding season. Vixens, or females, prepare a den site or sites, either digging one on their own or squatting in an unoccupied site. Dens are typically located on a hillside with a good view of the surrounding area or under a haystack or abandoned building. Most measure a few meters long and include a grass-lined chamber for the pups and more chambers for storing food.

Breeding occurs during January and February, producing one litter of four to six pups in March or April. Males (known as dogs) and females work cooperatively to raise their



SCIENTIFIC NAME *Vulpes* is the Latin word for “fox” and “cunning.”

young. Males are the sole provider for the homebound nursing female, but upon weaning both parents bring solid food to the pups until they are ready to tag along with their parents on nightly hunts. Adults may move pups between dens more than once during the first couple of months. Pups leave the den in the fall and are sexually mature their first winter.

DIET AND FORAGING BEHAVIOR

Red foxes hunt by scent and hearing, preferring rabbits and hares but also feasting on small mammals, birds, eggs, insects, and some plants. Stealthy and smart, they catch prey by sneaking up and pouncing rather than by chasing.

Red foxes are known to hunt cooperatively to flush out prey from patches of vegetation or from culverts. The handsome predators are

INSIDE: **FLYING WITH THE FWP "AIR FORCE"**

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UNBELIEVABLY, THEY ARE STILL SHOOTING RAPTORS

Red fox

Vulpes vulpes

By Lee Lamb



The first time I saw a red fox was in 1996 when I lived on the west side of Butte, where I often jogged along an abandoned railroad bed that snaked its way out of town. One summer evening I saw a flash of fur vanish in front of me into the sagebrush beside the path. I stopped and peered over the bank, hoping to catch another glimpse, but no luck.

I continued on to my turnaround spot and then headed back, rounded a corner, and stopped short: Up ahead and 30 feet below the point on the path where I'd seen the furry flash sat an adult red fox and two kits at a den entrance. The trio frolicked for several minutes before retreating into their den. I didn't see the foxes again but heard them yipping and barking on occasion down near the den area. Come fall, they were gone.

IDENTIFICATION AND ECOLOGY

Meriwether Lewis described the red fox in his journals as "the most beautiful fox in the world." With its rufous-colored coat, black "socks," and bushy, white-tipped tail, the red fox is certainly the most distinctive of Montana's canid species. Color variants do occur in the wild—the "silver fox" is black with white-tipped guard hairs, and the "cross fox" has a cross of brown hairs extending over its shoulders and down its midline—but all share the signature white tip on the tail.

Averaging 11 pounds and 42 inches from nose to tail tip, red foxes resemble a small dog in size. They communicate by bark, growl, and yip rather than by howl, and are primarily nocturnal. Red foxes live in a variety of habitats throughout Montana, but prefer riparian

areas and forest edges, and may den in disturbed areas near human habitation.

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Red foxes are known to hunt cooperatively to flush out prey from patches of vegetation or from culverts. The handsome predators are most active at twilight or at night, but they may hunt during daylight hours in winter and in the spring while rearing pups.

STATUS AND MANAGEMENT

Red foxes are widely distributed and abundant throughout Montana from dense forests to open grasslands to city parks. While many wildlife species have struggled and even declined with the growth of rural and suburban development, red foxes have adapted and taken advantage of human-altered habitats.

Though a few hundred red foxes are trapped in Montana each year for their lush fur, the activity has no effect on the state's overall population. 🦊



Silver phase red fox

FROM TOP: CINDY GOEDEL; TONY CAMPBELL

Writer Lee Lamb lives in Missoula.

Comments submitted by Carolyn Mehl and Jonathan Haufler – Additional Fall 2024 - Winter 2025 Wolf and other Species Trapping Regulations Within and Outside the Geographic Scope Identified by Federal Court Order

Several years ago, while bird hunting together on public lands, we had both of our bird dogs get caught in coyote power-snares, at the same time. We were able to save one of our dogs but the other died before we could free him. This led us to seek ways to make trapping activities and bird hunting more compatible on public lands. As a result of this, we had multiple conversations with MT Trappers Association and FWP staff that were contradictory and made us realize we needed to do more research on the legal status of coyote trapping in Montana.

What we learned surprised us. The deadliest trap for dogs and other wildlife species in Montana, by a wide margin, is a coyote snare. They are often baited with an attractant for predators. Yet, all resident coyote trappers are virtually unregulated in Montana. This is because coyotes are considered to be a “predatory animal” according to MT statute 81-7 and as such fall under the jurisdiction of the Department of Livestock (DOL), not Fish, Wildlife and Parks (FWP) and the Fish & Wildlife (F&W) Commission, as most Montanans believe. Per 81-7, DOL is the supervisory agency responsible for developing rules, regulations, or programs for killing predatory animals that include coyotes, and that are “necessary and proper for the systematic destruction of predatory animals by hunting, trapping, and poisoning operations.” Yet, no rules or regulations have been developed by DOL to date, nor through Federal regulations, therefore coyotes are currently an unprotected species in Montana.

In 2018 FWP sponsored the development of a Trapping Advisory Committee to review their trapping programs and regulations. In their final report to FWP and the Commission, this Committee recognized that FWP’s position was that it does not have authority over trapping of predators, as defined by DOL statute 81-7 that includes coyotes.

FWP has not sought to reduce public confusion around the convoluted language in DOL statute 81-7 and FWP statutes 87. Instead, they frequently use the phrase “for the purposes of livestock protection” when referring to predatory animal control trapping and snaring that fall under the jurisdiction of DOL. Understandably, most of the public assumes this refers to trapping with the objective to remove individuals or groups of problem animals that are killing or harassing livestock. Instead, **ALL** coyote trapping and snaring in Montana, in a legal sense, can be claimed to be “for the purposes of livestock protection” regardless of whether livestock occur nearby, and killing or harassment is not required. Further, the term “systematic destruction” of predatory animals as stated in DOL 81-7 is not defined. In practice, it appears to mean all coyotes are unprotected and can be trapped at any time, using any manner, and on all public lands, with no supervision by or accountability to the F&W Commission, or the citizens of Montana.

We further maintain that no resident coyote trapper is required by state law to have a license, and they can trap all year long with any kind of trap or snare, including lethal power-snares, like the one that killed our dog. A coyote trapper does not have to report any incidental (non-target species) captures to FWP, nor adhere to F&W Commission regulations such as setbacks or trapper education. Further, the F&W Commission cannot issue rules and regulations pertaining to coyote trapping and snaring other than those specifically directed to them by enabling legislation. Which, to date, has only been allowed under 2 circumstances: requiring a license for non-resident trappers and specifying that a person may

not use a trap or snare for the purpose of trapping or snaring a predatory animal unless the trap/snare has an identification tag and is set in a manner that will not endanger livestock.

The proposal presented by the F&W Commission implies these new regulations will apply to all coyote trapping and snaring activities occurring within the specified FWP regions and during the specified period. Based on our understanding of Montana statute, that are consistent with previous statements made by FWP staff, as well as current wording in regulations and trapping reports, these proposed changes by the F&W Commission to the 2024-2025 wolf trapping season will have no legal impact on the timing or method of killing coyotes, the most commonly trapped and snared species in Montana, and the greatest threat of injury or death to grizzly bears and other wildlife species in Montana, including Canada lynx - every single day of the year.

The public deserves clarification on this issue. We ask that this F&W Commission clearly state that it is authorized to develop regulations regarding all coyote trapping in Montana and specify which components of the proposal presented will apply to predatory animals as defined by DOL statute 81-7 and which components will apply to predatory animals defined by FWP statute 87-2. As one example of why this proposal is confusing is the statement "all recreational trappers inside of the geographic scope identified by federal court order....must adhere to the following regulations". The term recreational trapper is not defined in FWP statute or regulations and does not address any coyote trapper following 81-7 statutes. Without this information, the state has not provided adequate information to allow the citizens of Montana to make an informed assessment of whether this proposal will truly protect grizzly bears from all coyote trapping and meet the objectives set-forth in the proposal.

Carolyn is a Certified Wildlife Biologist with over 35 years of experience in the wildlife profession at multiple federal agencies, non-profit and for-profit positions.

Jon is a Certified Wildlife Biologist with over 40 years of experience in the wildlife profession at University, non-profit and forest industry positions. He is a Past-President of The Wildlife Society, the international organization for wildlife professionals and is currently President of the North American Grouse Partnership.

The following 2 documents are attached and provide more information relative to the comments submitted:

- 1) Email chain - FWP Director Worsech and Nathan Kluge, FWP Furbearer Specialist, on 01/10/2023 (we did not receive a response from Director Worsech)
- 2) Comments provided to the Montana Environmental Quality Council on 07/19/2022

From: [Carolyn Mehl](#)
To: ["Worsech, Hank"](#)
Cc: ["Arnold, Randy"](#); ["Bradley, Liz"](#); ["Miller, Kyle"](#); ["Kluge, Nathan"](#); jon_haufler@emri.org; Thomas.France@legmt.gov; Pat.Flowers@legmt.gov; Marilyn.Marler@legmt.gov; ["Chris Servheen"](#); ["Andrew McKean"](#); gwolfe207@bresnan.net; vcrowser@mt.gov
Subject: FW: [EXTERNAL] update on trapping info/incidental capture feedback requested
Date: Tuesday, January 10, 2023 1:53:15 PM
Attachments: [Kluge Montana Incidental Dog Fact Sheet - Coyote and Fox applicable.pdf](#)
[MT Statute Predatory Animals Mehl.Haufler.pdf](#)

Dear Director Worsech –

I received an email from Nathan Kluge, FWP Furbearer Specialist regarding my emailed questions sent on December 9. See below this letter for my response to Mr. Kluge's email. I have also attached Mr. Kluge's "corrected" version of the MT Incidental Dog Fact Sheet he referenced and provided, as well as the attached MT Statutes Predatory Animal document provided in my response.

The MT Statutes document represents the results of extensive research on Montana statutes related to predatory animals, with confirmation of these results by other sources. This analysis indicates that **FWP does not have regulatory authority over coyote trapping, except for the requirement of a name tag. It would also appear that FWP does not regulate red fox in any way.** Instead, coyotes and red fox fall under the jurisdiction of Department of Livestock (DOL), where they are also not regulated in any way. Therefore, the corrected Incidental Dog Fact Sheet sent to me by Mr. Kluge does not, in fact, apply to coyotes and red fox in any way.

Why does this concern me?

- 1) *By FWP's own data, the number one killer of dogs hunting/recreating with their owners is a coyote snare.* Yet, the "fact sheet" provided to CAC members to specifically get their input related to the incidental trapping and snaring of dogs, does not disclose that the regulations presented do not apply to the number one killer of dogs in traps and snares in Montana.
- 2) *FWP also does not disclose the limitations of the data they present on incidental dog captures.* Brian Wakeling, FWP Game Mgmt. Bureau Chief, has confirmed coyotes are not regulated and stated that "The purpose of the database we use...is primarily to monitor harvest reports for species that have a mandatory reporting requirement. We ask ancillary questions, such as nontarget take, but that is not the primary reason for the database." Yet, FWP presents this data to the CAC committees and implies it can be used for the purpose of understanding the number of dogs captured/killed in traps and snares in Montana. This is very misleading since:
 - a. Coyote and red fox trappers are fundamentally unregulated, according to state law, and therefore do not need to report incidental take to FWP.
 - b. Licensed furbearer trappers are the only private individuals required to report this information and do not have to report incidental take for coyotes or red fox.
 - c. FWP offers no public notices telling hunters with dogs, or any other recreationists with dogs, to report dogs captured in traps and snares to FWP. Without doing so, and without confirming the accuracy of all reports, they cannot present their incidental take database as an accurate reflection of the number of dogs captured/killed by traps and snares in Montana. **At best, it should be described as ancillary data acquired from multiple indirect sources that may not reflect the scope of the problem in Montana.**
- 3) **Based on the above, it is not possible for FWP to provide information that would in any way address the objectives of HJ33 - a study bill to quantify and understand the number of dogs killed and injured in traps and snares every year in Montana. The EQC and Montana State Legislature should reject the FWP report summarizing the results of the CAC member survey that is clearly based on FWP's misrepresentation of the facts.**

My husband, Jon Haufler and I, have said from our first conversation with FWP regarding the circumstances surrounding the loss of our dog and near loss of our second dog to coyote snares, that we are not anti-trapping. But we are anti-unregulated trapping on public lands and we are also anti- the purposeful misrepresentation of facts by a state government agency to the very constituents they represent and are funded by. There are roughly 140,000 FWP licensed upland bird hunters in Montana every year and there are **zero** FWP licensed resident coyote and red fox trappers.

Due to many years of misleading wording in statute and FWP trapping regulations, DOL and FWP have confused their own employees, bird hunters, the general public, and most state legislators, as to the truth about “regulated” trapping in Montana. It is time for the MT State Legislature to fix this long-standing issue and put forward legislation to place coyote and red fox hunting and trapping under the full jurisdiction of FWP/F&W Commission, while also demanding full transparency by FWP’s administration. This is the only way to ensure all trapping is regulated, as it should be, and to provide all user groups an equal say in hunting and trapping activities in Montana.

Sincerely,
Carolyn Mehl

From: Carolyn Mehl <carolyn_mehl@emri.org>

Sent: Friday, December 16, 2022 3:42 PM

To: Nathan.Kluge@mt.gov

Cc: 'Haufler Jon' <Jon_Haufler@emri.org>

Subject: [EXTERNAL] update on trapping info/incidental capture feedback requested

Hi Nathan – I sincerely appreciate your response to my questions and acknowledge that this is a confusing subject facilitated by contradictory definitions and terminology presented in Montana State Statutes 81 and 87. I have spent a great deal of time parsing those definitions and terminology and have attached a summary of my conclusions (MT Statute Predatory Animals). I have used that information to respond (in red text) to the highlighted sections of your explanations below.

Further, while it seems to be extremely rare, some FWP administrative staff have made the following public statements –

[Recent Outdoor Life article by Andrew McKean](#)

“In Montana, coyotes are not regulated, confirmed Brian Wakeling, game management bureau chief for Fish, Wildlife & Parks. Like skunks and weasels, coyotes are beyond the scope of regulated species,” Wakeling says. “Because coyotes are not regulated, an individual may trap or shoot coyotes without any authorization from the Department.”

Continued following Fact Sheet



Montana Trapping Regulations to Prevent Incidental Domestic Dog Captures

General Regulations:

- The capture of any animal that cannot be lawfully trapped or snared, including domestic animals, must be reported to FWP within 24 hours.
- ~~Trapper education is required for any resident that has not purchased a trapper's license in three prior trapping seasons. Residents who have a certification to trap wolves, but have not purchased a trapper's license in three prior trapping seasons, must take trapper education to purchase a trapping license. Residents who have not purchased a trapper's license in three prior trapping seasons, but wish to only trap wolves, must take the trapper education course. Non-residents who wish to trap wolves in Montana must have the wolf trapper education certification.~~
- ~~Trappers targeting bobcat in Lynx Protection Zone or wolves throughout Montana must visually check traps every 48 hours.~~
- All National Parks, National Wildlife Refuges, and Indian Trust or Tribal Trust lands are closed to trapping except as otherwise specified.
- Areas of high human use are closed to trapping or have specific trapping restrictions ([see current regulations for details](#)).
- There are Special Regulations on certain Wildlife management Areas restricting trapping effort ([see current regulations for details](#)).

Trap Setbacks:

- No trap or snare may be set with **30 feet** of an **exposed carcass or bait** that is visible from above.
- Killing ground sets, including all snares, set for animals larger than ground squirrels are unlawful within **1,000 feet** of an **occupied dwelling** without written notification to the inhabitant.
- Ground sets using 7 x 7 inches or larger body-gripping traps, and all snares are unlawful within the right-of-way of county roads, state and federal highways, and interstates. Along country roads with no defined right of way with ground sets are unlawful within **50 feet** of the **edge of the road**.
- Public land ground sets and/or snares:
 - Ground sets using 7 x 7 inches or larger body-gripping traps must have **trigger recessed** at a minimum of 7 inches in a wood, plastic or metal **enclosure** or cubby that provides a maximum opening of 52 square inches or less.
 - Ground sets including snares are unlawful within **1000 feet** of a designated **campground or recreation site** that is accessible by a highway vehicle at any time of the year.
 - Ground sets or snares require a **50-foot setback** from edge of **designated roads and hiking trails** ([see regulations for exceptions](#)) while wolf sets require a **150-foot setback**.
 - A **500-foot setback** from high recreational use trails and roads in regions 1 and 3.
 - Ground sets are unlawful within **300 feet** and lethal ground sets, snares, and wolf sets are unlawful within **1000 feet** of **designated or marked trailhead** that is accessible by a highway vehicle at any time of the year.

Trap Specific Regulations:

Footholds



- Two swivels, including a center swivel on the base of the foothold trap.
- ~~Wolf trap pan tension must be set > 10 pounds in Regions 1, 2, 3, 4, and 5.~~

Body Gripping



- In Lynx Protection Areas (LPAs) body gripping traps must meet **ONE** of the following:
 - Placed under water
 - ≤ Conibear #120
 - Elevated set without leaning pole **or** as part of leaning pole < 4" in diameter **and** > 48" above ground

Snares and Cable Restraints



- Not allowed within LPAs unless **ALL** the following are met:
 - Cable diameter ≥ 5/64"
 - Loop > 8"
 - 350 lbs. breakaway
 - Relaxing device

FWP Ken McDonald statement regarding coyotes during legislative 2019 hearing HB551.

"Coyotes are not regulated by us so there's no regulation or limitation on how you take coyotes." ~

16:29:40

<http://sg001->

harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20170221/-1/35951?agendaId=162944#agenda

Also, a past-Fish and Wildlife Commission member told us the Commission was informed by FWP staff that coyotes are not regulated by FWP in any way, as the Commission was embarking on considering new trapping regulations.

Thanks again for responding to my email.

Carolyn

From: Kluge, Nathan <Nathan.Kluge@mt.gov>

Sent: Friday, December 16, 2022 8:42 AM

To: Carolyn Mehl <carolyn_mehl@emri.org>

Subject: RE: [EXTERNAL] update on trapping info/incidental capture feedback requested

***Yellow highlighted text from NKluge is followed by a response from CMehl

Dear Carolyn,

Thank you for reaching out with your questions regarding trapping regulations for coyotes and red fox in Montana. I do want to clarify that the "Fact Sheet" was intended to provide a brief overview of some of the primary trapping regulations that have the potential to mitigate incidental dog captures. It was not intended to replace the trapping regulations (attached) or cover the regulations for all species.

Red fox are not defined as a furbearer or predatory species under 87-6-101, MCA. Therefore, they are classified as a non-game species: "Nongame wildlife' means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state." (Since red fox are classified by 81-7-101 as a predatory animal, they are legally classified by statute and therefore excluded from this definition.) 87-6-101(19), MCA. Coyotes are explicitly defined as a "predatory animal" under 87-6-101, MCA. (Yes, but since predatory animals are not "supervised" by FWP or the Fish and Wildlife Commission, and are supervised by Department of Livestock (DOL) per 81-7-101, the only FWP regulations that apply to FWP's definition of predatory animals include 87-2-101 and 87-6-601.)

As to the fact sheet, they *mostly* apply to nongame and predatory species. The fact sheet speaks to (1) general trapping regulations, (2) lawful trap types, and (3) trapping setbacks. Page 10 of the Commission adopted regulations, states: "Setbacks and Trapping on Public Land with Ground Sets and/or Snares - The following regulations and setbacks **apply to all federal and state public lands** for the trapping of furbearers, **predatory animals, and non-game wildlife** at any time." The same applies for trap types. (The next sentence following the highlighted quote states "They do not apply to trapping that is regulated by Title 81 (Livestock), Montana Code Annotated." And, since they are, in fact, not regulated under Title 81, this is also a misleading word choice.)

The only exception is that since coyotes and red fox are not classified as furbearers, resident trappers are not required to complete a trapper education course or acquire a trapping license, unless also targeting furbearers. **Non-resident trappers can not trap furbearers and are required to purchase a trapping license to trap predators and non-game furbearing animals.** (This statement is true for coyote but not red fox – see my first comment) I have attached a species classification guide that defines the species that are furbearers, predators, non-game, species in need of management, and game animals. (The Species Classification Reference.pdf is incorrect for red fox. By statute, as described above, red fox is only defined as a predatory animal by DOL. Red fox is excluded from all FWP definitions, and therefore is not regulated in any way by FWP.)

I have re-attached the Fact Sheet and have crossed out regulations that would not apply to resident trappers targeting coyote and red fox. If you have specific questions after looking over the 2022 trapping regulations, please let me know.

Sincerely,

Nathan Kluge

Furbearer Coordinator

Montana Fish, Wildlife & Parks

From: Carolyn Mehl <carolyn_mehl@emri.org>

Sent: Friday, December 9, 2022 8:02 AM

To: Worsech, Hank <Hank.Worsech@mt.gov>; vcrowser@mt.gov

Cc: Arnold, Randy <rarnold@mt.gov>; Bradley, Liz <LBradley@mt.gov>; Miller, Kyle <KMMiller@mt.gov>; Kluge, Nathan <Nathan.Kluge@mt.gov>; jon_haufler@emri.org; Thomas.France@legmt.gov; Pat.Flowers@legmt.gov; Marilyn.Marler@legmt.gov; 'Chris Servheen' <chrisservheen@gmail.com>; Andrew McKean <montanamckean@gmail.com>; gwolfe207@bresnan.net

Subject: [EXTERNAL] update on trapping info/incidental capture feedback requested

Dear Vivica and Director Worsech– I just received a copy of this email. I am not a member of the CAC committees but I am someone who had a dog killed in a coyote snare while legally bird hunting on public land in Montana – also, I am a wildlife biologist. I've read the Fact Sheet and would like to receive clarification on 2 points regarding the "facts":

1. Do any of these "fact sheet" FWP regulations apply to coyote trapping and snaring on public land in Montana? And if so, which ones?
2. Do any of these "fact sheet" FWP regulations apply to red fox trapping and snaring on public land in Montana? And if so, which ones?

I have requested an answer to these questions multiple times over the last 2 years from FWP's legal department and have yet to receive a response.

Thank you,
Carolyn Mehl



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 - Elevated set without leaning pole **or** as part of leaning pole < 4" in diameter **and** > 48" above ground

Snares and Cable Restraints

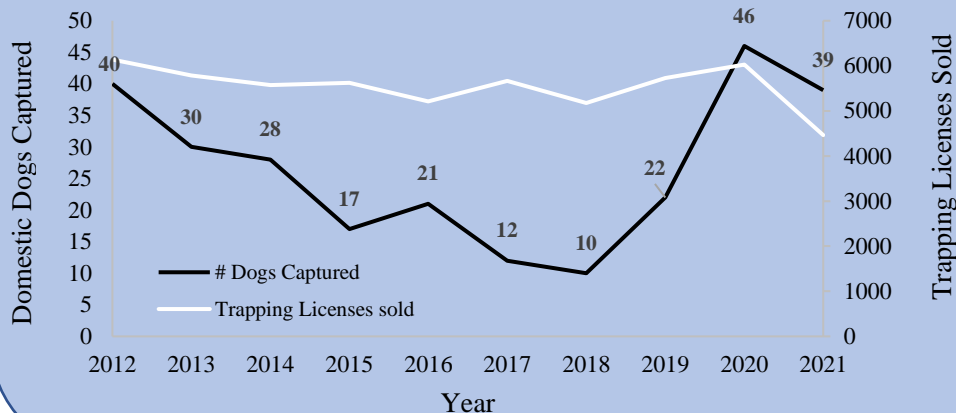


- Not allowed within LPAs unless **ALL** the following are met:
 - Cable diameter ≥ 5/64"
 - Loop > 8"
 - 350 lbs. breakaway
 - Relaxing device

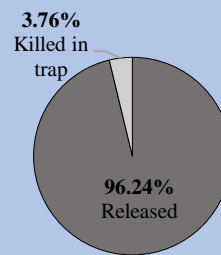
Incidental Domestic Dog Capture Stats (2012 - 2021):

- 266 total captures = average of ~26 dogs per year
- 256 successfully released; 10 killed in trap

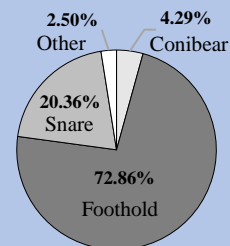
Annual Incidental Domestic Dog Captures vs License Sales



Dogs Successful Released



Trap Type Involved



Key Messages on Trapping:

These messages are effective in communicating the role of regulated trapping. Their use is recommended when you have the opportunity to talk about trapping.

- 1) Regulated trapping does not cause wildlife to become threatened or endangered.
- 2) Trapping is managed through scientifically-based regulations that are strictly enforced by trained conservation enforcement officers.
- 3) State wildlife agencies continually review and develop rules, regulations, education programs, and capture methods that consider animal welfare.
- 4) Regulated trapping provides many benefits, including (in certain situations);
 - Reducing wildlife damage to crops and property;
 - Reducing threats to human health and safety.
- 5) Most of the animal can be used as clothing, food, or other useful products.



Additional References:

- [Use of Bodygrip Traps on Dryland: A Guide To Responsible Use.](#)
- [Summary of State Furbearer Trapping Regulations Survey Report Brochure \(2018\).](#)
- [How to Avoid the Incidental Take of Canada Lynx](#)
- [Releasing your Dog From a Trap](#) (YouTube video; Idaho Fish & Game)

Prepared: August 2022

Nathan Kluge

Furbearer Coordinator

Montana Fish, Wildlife & Parks

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From: "Crowser, Vivaca" <Vcrowser@mt.gov>

Date: September 13, 2022 at 4:32:17 PM MDT

Cc: "Arnold, Randy" <rarnold@mt.gov>, "Bradley, Liz" <LBradley@mt.gov>, "Miller, Kyle" <KMMiller@mt.gov>

Subject: update on trapping info/incidental capture feedback requested

Hi, R2 CAC-

Just a quick follow-up to let you know that we received a bit more clarification on the feedback we are soliciting from you all on potential ways to reduce incidental captures when trapping. This feedback is part of a House Joint Resolution interim study (HJ 33) and we (FWP) have committed to providing some feedback from our CAC members across the state as part of the study.

Please send any ideas you may have to me by Nov. 15. Thanks to those that have already responded to this request for ideas!

Here is the question that we are looking for your response on:

*Current efforts to reduce incidental captures of domestic dogs in traps and snares include mandatory trapper education, trapping setbacks (see information on regs in the attachment), and required reporting of incidental dog captures. **What, if any, additional regulatory or statutory options should be implemented to reduce incidental captures of domestic dogs in traps and snares?***

A few key points:

- We aren't being asked to have a group discussion or reach consensus—we are just looking to you as a group of people that follow issues such as this and may have valuable feedback to provide. All CAC members around the state are being asked to provide feedback on the same question.
- We will assemble your feedback and send it to Helena by Dec. 1.
- Attached is a fact sheet that might be helpful reference when submitting ideas.

Thanks,

Vivaca Crowser

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“TRAPPING UPDATE” COMMENTS Submitted to Environmental Quality Council

Carolyn Mehl and Jonathan Haufler**

Summary

- Snares set for coyotes represent the highest risk of injury and death to dogs recreating with their people from trapping activities on public lands in Montana.
- **No** resident coyote trappers are required to be licensed or are regulated in Montana, therefore they are not required to report non-target capture of dogs to MFWP.
- **No** coyote trappers are licensed in Montana therefore they are not required to take the new MFWP Trapper Education course.
- The majority of hunters and other recreational users with dogs are under the misconception that non-predatory animal control coyote trappers are licensed and regulated by MFWP.
- MFWP facilitates this misconception by suggesting that set-backs, signage requirements on MDRNC lands, reporting requirements for non-target capture of dogs, and the new trapper's education course apply to or are required by all trappers, when in fact, they are not required for coyotes and other predatory animals.

Background - During the 2021 Montana State Legislative session, we worked with Rep. Tom France to put forward HB 523 (restrict snaring on public lands during part of the year) and 524 (require flagging around traps/snares on public lands). During this hearing, we presented testimony on our recent traumatic loss of one of our hunting dogs, while barely saving a second hunting dog, when both were captured at the same time in legally set power-snares targeting coyotes. We had no way of knowing these snares were present in the area while we were legally upland bird hunting on public lands in Montana.

How did we know these snares were legally set coyote snares? First, we are both wildlife biologists and can recognize a snare set for coyotes. Second, we had contacted Bob Inman, Montana Fish, Wildlife and Parks (MFWP) Furbearer Specialist, to report the loss of our dog and near loss of the second dog and he had sent Todd Tryan, MFWP Law Enforcement, to confirm the circumstances of our statements. Mr. Inman later called us to let us know Mr. Tryan had confirmed the location was MDNRC lands and the snares were legally set coyote snares. He knew who the trapper was and that he was a coyote trapper.

Both HB 523 and 524 were tabled after a brief discussion by the House Fish, Wildlife and Parks Committee and after public testimony by trappers that dogs killed in snares are believed to be a very rare event and that upland bird hunters needed to keep their dogs leashed or in sight at all times, as well as trained to be leash-broke so when their neck is snagged by a snare they can sit-down and wait to be released, because, apparently, bird dogs should walk not run in pursuit of game. Anything less was considered by those testifying to be incompatible with trapping and snaring on public lands and therefore it was our fault our dogs were captured. In short, HB 523 and 524 were tabled because the state does not have data to support the need for either of these two bills, even though many other states have adopted some of these changes because they have found them to be warranted to protect hunting dogs. As a result of this outcome, Rep. France worked with us to put forward HJ 33 – a study bill to investigate and quantify how many dogs are trapped and injured and steps that can be taken to reduce conflicts with trappers on public lands.

***Carolyn Mehl and Jonathan Haufler, are Certified Wildlife Biologists. Jonathan Haufler is also a past-President of The Wildlife Society, the International organization for wildlife management professionals.*

During the HJ 33 public hearing, MFWP did not provide a staff person as an informational witness to answer committee member questions related to the proposed study bill. In MFWP's absence, some House Fish, Wildlife, and Parks committee members made statements assuring other committee members that: 1) MFWP was already quantifying the number of dogs trapped and injured on public lands in Montana through the Incidental Take/Non-target Capture data being collected by MFWP, 2) the new 2021 requirements for trapper education would describe best practices for setting traps and snares in a manner that would avoid trapping or snaring dogs, and 3) MFWP Director Worsech had been contacted during the hearing break and had assured Rep. Loge that MFWP would include and moderate discussions between Regional Citizen Advisory Committee members in 2021 to identify possible solutions to reduce the conflict between trappers and hunters with dogs, as well as other recreational users with dogs, on public lands. Finally, they indicated the results of these efforts would be presented to the Environmental Quality Council (EQC) in 2021.

We continue to have many concerns regarding the statements made during HJ 33 hearing and the "solutions" put forth by the House Fish, Wildlife and Parks Committee. First, MFWP's Non-target Capture data referenced in the 2021 hearings has demonstrated that coyote trapping, and snaring in particular, are the primary cause of injuries and death to dogs from trapping in Montana. In our discussions with MFWP's Bob Inman, he stated multiple times that predatory animal control trapping and snaring is the primary method of coyote harvest on public lands. Yet **ALL** coyote trapping and snaring activities on public land fall under the jurisdiction of the Montana Department of Livestock (MDOL), not MFWP as many believe. As such, Montana residents engaged in coyote trapping and snaring activities are not required to be licensed. Further, the only regulation that applies to predatory animal control trapping is a requirement to attach a name tag to all traps - see Attachment A and B for a comparison of the laws and regulations between MDOL and MFWP, regarding predatory animals.

What does this mean relative to the 3 proposed "solutions" from the HJ 33 hearing?

Because coyote trappers are not licensed nor regulated by MFWP, other than requiring a name tag, they **are not legally required to report incidental/non-target capture of any dog to MFWP for inclusion to the database.** While some reports of coyote trapping-related dog captures do make it into the database, it is likely that such captures are highly under-reported. Still, while these data most likely represent a very small portion of the data that would be available if coyote trappers were required to report non-target dog captures, they clearly do show coyote trapping and snaring present the highest risk of injury and death to dogs of any type of trapping/snaring activities included in the data.

Further, by MFWP's own admission they do not have a standardized protocol to ensure dog capture reports submitted directly to MFWP by hunters/owners will make it into the non-target capture database. We were told that law enforcement officers often get these reports and they may or may not report this information to the non-target database manager.

We also question the accuracy of the dog capture data included in the database. As stated earlier, we reported our dogs' captures directly to Bob Inman, the MFWP employee responsible for maintaining the non-target capture database, and yet our dog that survived the capture was not included. Also concerning was the information reported for our dog that was killed stated "unknown" for the target species and "unknown" on whether the trap was legal. MFWP, through their own law enforcement investigation, confirmed the target species was coyote and the traps were legal. How could this information not make it into the database?

Like the non-target capture database, the new mandatory trapper education course only applies to MFWP licensed trappers. **Predatory animal control trappers are not required to take a trapper education course.** Since there is no way to know how many coyote trappers are also licensed for other furbearer species by MFWP and the non-target capture database does not quantify all dog captures in coyote traps and snares, it will be impossible to know whether the implementation of this program has helped reduce this problem for other user groups on public lands in Montana.

Lastly, based on our experience during and after the 2021 legislative session, it seems there are a number of administrators at MFWP who continue to facilitate the public confusion over the actual “firewall” between MDOL and MFWP regulations and policy as it relates to predatory animal trapping and snaring in Montana. We requested a response to questions we posed to MFWP regarding the “firewall” between the two agencies were never provided an answer to our questions. MFWP also did not host the “dogs and traps/snares” conflict discussion as they indicated they would.

We are also disturbed by MFWP’s willingness to mislead hunters with articles like “Quick Release” in Montana Outdoors (Tom Dickinson; Sept-Oct 2019) which was developed to inform upland bird hunters about the risks to their dogs from trapping and snaring on public lands, and recommend ways to avoid or minimize these risks. As an example, the article stated:

“They (traps and snares) are prohibited within 1,000 feet of any designated public campground or recreational site such as a boat ramp or fishing access site. Traps or snares aren’t allowed within 50 feet of the edge of trails or roads designated by administrative signs or numbers, such as those in national forests (e.g., “FT 113”). Depending on the type of trap, they are prohibited within 300 to 1,000 feet of a designated trailhead. And it’s illegal for a trap or snare to be within 500 feet from the edge of trails and roads in more than two dozen high-use hiking and cross-country ski areas in northwestern and southwestern Montana.”

“Trappers are not legally required to post orange flags or other warnings at their trap sites. That’s primarily to prevent people from vandalizing the sets. The one exception is that state school trust lands containing traps must have signs indicating their presence.”

Relative to just these two statements, and there are more of concern in this MFWP article, nowhere does it alert the upland bird hunter that the highest risk of injury and death to our bird dogs will come from traps and snares set for coyotes. As coyote traps and snares are not regulated, the suggestions in the article for avoiding such traps and snares on public lands is inaccurate and misleading.

When you consider there are 140,000+ MFWP licensed upland bird hunters every year in Montana and zero MFWP licensed coyote trappers, why would MFWP conceal these risks to our bird dogs while protecting the activities of predatory animal trappers? Further the economic benefit of upland bird hunting to rural communities and the state in general are well established, and far exceed the economic benefit of trapping.

Even on Block Management Areas which receive high levels of funding support from bird hunters, MFWP has made no effort to let bird hunters know if trapping and snaring is occurring on a particular BMA so they can make better informed decisions to protect their dogs, where trapping and bird hunting occur simultaneously. This could easily be accomplished by indicating on each BMA information sheet whether or not the landowner allows trapping on the BMA during the bird hunting season.

Predatory animal control under Montana statute is a relic of the early 1900's bounty system and calls for the "systematic destruction" of predatory animals. This is not heritage furbearer trapping which is considered by state wildlife agencies as an important tool and component of the North American Model of wildlife management.

HJ33 was developed as an attempt to obtain credible information on the number of dogs trapped and injured every year, as well as to identify steps that can be taken to reduce conflicts with trappers on public lands. Instead, we now understand that we can never accurately know how many dogs are injured and killed by trapping activities on public lands in Montana without requiring coyote trappers be licensed and regulated. Without this information, and better information on the types of traps and snares that are contributing the most to dog injuries and death, Montanans will never have productive conversations about ways to reduce conflicts between trappers and other user groups recreating with dogs on public lands. This is a major oversight in our state laws and one that we hope can be addressed and rectified in the next legislative session.

Attachment A

Comparison of applicable Montana Trapping and Snaring Laws and Regulations by Montana Fish, Wildlife and Parks (MFWP) and Montana Department of Livestock (MDOL) for **Predatory Animals (both MFWP and MDOL) and Nongame Animals (MFWP Only)**. Red text indicates inserted comments:

| ITEM | MFWP/Fish and Wildlife Commission | MDOL |
|---|---|--|
| Definition | MCA 87-6-101 Predatory Animals: coyote, weasel, skunk, and civet cat; Non-game: badger, raccoon, red fox | MCA 81-7-101 Predatory Animals: coyote, red fox, and any other individual animal causing depredations upon livestock |
| License Required Resident Non-resident | <p>No – Predatory animals include weasel, skunk, and civet cat; non-game includes badger and raccoon. Does not apply to coyote and red fox trapping - see MDOL MCA 81-7.</p> <p>Yes, per MCA 87-2-603. Class C-2--nonresident trapper's license. (1) A person not a resident, as defined in 87-2-102, who is 12 years of age or older, upon making application and payment of a fee of \$250 to the department, is entitled to a nonresident trapper's license that authorizes the holder to trap and snare predatory animals and nongame wildlife within the state. The trapping or snaring is permitted only after October 15 of each license year and in the manner provided by law and the rules of the commission and at the places that may be designated in the license.</p> | <p>Resident – No Non-Resident – Yes, see MCA 87-2-603</p> |
| Applicable Laws | <p>Fish & Wildlife Criminal Provisions -Trapping/Snaring Offenses (MCA 87-6-601)</p> <ul style="list-style-type: none"> • Metal identification tag required on all traps and snares • Snares should be set in a manner and at a time to not unduly endanger livestock; a person causing injuries to livestock in snares is liable for damages to the owner of the livestock. • A person may not destroy, disturb, or remove any trap/snare or wildlife from a trap/snare belonging to another person without permission, except that from March 1 to Oct 1 of each year a person may remove any snare from land leased by the person if the snare would endanger livestock. • A person convicted of a violation of this section shall be fined \geq \$50 or \leq \$1,000 or be imprisoned up to 6 months, or both. In addition, the person, if convicted, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by the state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in MCA 77-1-101, for a period of time set by the court. <p>**note –forfeiture of licenses would not apply to unlicensed resident predatory animal trapper for MDOL trapping purposes</p> | |
| Applicable Agency Rules and Regulations | <p>Per MFWP 2021 Furbearers & Trapping Regulations, page 3, Laws and Rules section:</p> <p>“These laws and rules apply to trapping of furbearers, predatory animals (<i>applicable species includes weasel, skunk, and civet cat</i>), and nongame wildlife (<i>badger and raccoon</i>). They do not apply to trapping that is regulated by Title 81 (Livestock), Montana Code Annotated”</p> <p>1. To improve understanding of accidental dog captures in traps and snares, trappers must report such captures, excluding trapper’s dogs, to an MFWP regional office within 24 hours of identifying the capture.</p> | NONE |

| ITEM | MFWP/Fish and Wildlife Commission | MDOL |
|---|---|------|
| Applicable Agency Rules and Regulations, Continued | <ol style="list-style-type: none"> 2. No trap or snare may be set within 30 feet of an exposed carcass or bait that is visible from above. 3. Trapped lynx that are uninjured must be released immediately and the incident must be reported to a MFWP warden or biologist within 24 hours of release. If a lynx is injured, trappers must immediately notify a warden, biologist, or a regional office, to determine disposition and/or collection of the animal. 4. The capture of any animal that cannot be lawfully trapped, including domestic animals, must be reported to FWP within 24 hours. Any such animal that is uninjured must be released prior to the trapper leaving the trap site. If unable to safely release the animal, call FWP. Exception: Any such animal that is injured or dead must promptly (with little or no delay) be reported to FWP to determine disposition and/or collection of the animal. Animals that may be lawfully trapped are furbearers or wolves for which the season is open and an individual possession limit has not been reached, nongame wildlife and predators. A trapper may NOT trap any game animal, game bird or migratory bird. 5. Ground sets, including all snares, are unlawful within 1000 feet of an occupied dwelling without written notification to the inhabitant. 6. It is unlawful to use any recorded or electrically amplified bird or animal calls or sounds or imitations of bird or animal calls or sounds to assist in the hunting, taking, killing, or capturing of any wildlife except predatory animals, wolves, and those birds not protected by state or federal law. 7. Breakaway snares must be fastened to an immovable object solidly secured to the ground. 8. The use of drags is unlawful on snares. 9. All snares in Lynx Protection Zones must be equipped with a relaxing device. 10. All bobcat snares in Trapping Districts 1, 2, and portions of 3,4, and 5, must be equipped with a relaxing device. 11. Ground sets including snares are unlawful within 1000 ft of a designated campground or recreation site that is accessible by a highway vehicle at any time | |

| ITEM | MFWP/Fish and Wildlife Commission | MDOL |
|--|---|---|
| Trappers Education Required (SB60) | Resident –No , predatory and nongame animal trapping is not included in SB60 Non-resident – No , predatory and nongame animal trapping is not included in SB60 | Resident – No , per SB60 "A resident is not required to complete a trapper education course if the resident is trapping for the purposes of livestock" Non-resident: No , not included in SB60 |
| Special DNRC Recreational Use Permit Required | Yes - Trappers are required to obtain a free Special Recreational Use License (SRUL) from the Montana Department of Natural Resources and Conservation prior to trapping or snaring on State School Trust lands. However, predatory animal control trappers acting as an agent of a grazing lessee are not required to obtain a SRUL. Grazing lessees can identify a trapper as an agent at any time and for an undetermined amount of time. <i>(**note – all other user groups, including licensed trappers and hunters, are expected to pay for an SRUL)</i> | |
| US Forest Service and Bureau of Land Management – National Environmental Policy Act (NEPA) Implications | MFWP provides estimates of coyote and red fox harvest as well as non-target incidental take from licensed furbearer and wolf trappers who respond to their annual voluntary survey. Harvest surveys are not sent to unlicensed predatory animal or non-game trappers who are also not harvesting species that require a license. Therefore, harvest estimates provided to Wildlife Services by MFWP for the APHIS-Wildlife Services (MT) Environmental Assessment (EA) may significantly under-represent the number of predatory animals harvested, as well as non-target captures. | The 2021 USDA APHIS-Wildlife Services (MT) Environmental Assessment (EA) does not disclose or discuss the implications of the unknown number of predatory animals (MDOL definition) being trapped and snared (harvested) by private individuals under MCA Title 81, Livestock, on federal lands in Montana. Title 81 private trappers are also not required by state laws or regulations to report incidental take which may compromise a federal land manager’s ability to understand impacts to species of concern under their jurisdiction. |
| US Fish and Wildlife Service ESA Section 10, Incidental Take Implications | Per MFWP Rules and Regulations some protections and reporting requirements are in place for traps and snares set for predatory animals defined as weasel, skunk, and civet cat, and non-game wildlife defined as badger and raccoon, | Incidental take of non-target wildlife injured or killed in traps or snares set for coyote, red fox, or any other animals causing depredations upon livestock, are not required by state law to be reported to any state agency. This impairs the ability of the US Fish and Wildlife Service to adequately assess the impacts of these activities on federally endangered or sensitive species. |

Compiled by: Carolyn Mehl, May 2022

Attachment B - Predatory Animal Jurisdiction and Authority; Montana Statutes

By Carolyn Mehl and Jonathan Haufler

The following recommendation was identified as a result of the 2018 Montana Fish, Wildlife, and Parks's sponsored Montana Trapping Advisory Committee (2018):

The Committee recognizes that MFWP's position is that it does not have authority over trapping of predators (defined as coyote, red fox and any other individual animal causing depredations upon livestock) when done for purposes of protecting livestock. However, to reduce confusion, the Committee recommends that MFWP clarify and describe the "firewall"/difference between damage control and other kinds of trapping and the associated legal statutes, etc., in its regulations and education efforts as follows:

- *"Per MCA 81-7-101 and 81-7-102 (Department of Livestock), Montana Fish, Wildlife and Parks does not have authority over trapping of predatory animals for purposes of livestock protection. This applies to livestock producers or their agents trapping for coyote, red fox and any other individual animal causing depredations upon livestock. Such persons trapping specifically for the purposes of livestock protection are exempt from any Fish, Wildlife and Parks trapping regulations. All other types of trapping are regulated by Montana Fish, Wildlife and Parks under MCA 87-1-201 and 87-1-301."*

To date, neither Montana Department of Livestock (MDOL) or MFWP have produced a description of the jurisdictional firewall between MDOL 81-7 and MFWP 87-1, as recommended by the 2018 TAC committee. To that end, we provide the following summary of the "firewall" based on an in-depth review and comparison of both statutes regarding predatory animals. We have also attached the detailed review to the end of these comments.

"FIREWALL" SUMMARY

When directly comparing DOL 81-7 to FWP 87-1, where things occur in the hierarchy of statute structure is very important. Key words and phrases pop out as consistent between the 2 Titles - "supervise" and "the department shall" is used in both Title 81-7-102, and Title 87-1-201 and 301 where each agency's powers and duties are described. What is important to note is that the term "predatory animals" is only defined and used by DOL 81-7 where MDOL's powers and duties are described and is nowhere to be found in 87-1 where MFWP's powers and duties are described, making MDOL the sole agency "supervising" this category of wildlife.

Predatory animals, defined as coyotes, red fox, and other individual animals depredating on livestock, are "supervised" by Department of Livestock per DOL 81-7 but no additional rules, regulations, or programs have been established by MDOL (i.e., they are unprotected). Therefore, all resident trapping and snaring for coyotes and red fox in Montana is allowed per DOL 81-7 but is unregulated and unlicensed by MDOL. Predatory animals and non-game as defined per FWP 87-2 and 87-6, are not supervised by MFWP and the F&G Commission, but 3 statutes do apply to MFWP defined predatory animals and non-game wildlife:

- a) 87-2-603 - Non-residents must be licensed to trap predatory animals and non-game wildlife;
- b) 87-6-301 – Non-residents trapping predatory animals and non-game wildlife without a license is an offense;

c) 87-6-601- A person may not use a trap or snare for the purpose of trapping or snaring a predatory animal and non-game species unless the trap/snare has an identification tag and is set in a manner that will not endanger livestock.

Since MDOL has not developed any programs, regulations, or administrative rules related to 81-7, the general public has no mechanism for input to a very contentious activity on public lands in Montana other than administrative rules related to the 3 MFWP regulations identified above.

The reason that the 2018 Fish, Wildlife, and Park's sponsored Montana Trapping Advisory Committee asked MFWP "to clarify and describe the "firewall"/difference between damage control and other kinds of trapping and the associated legal statutes, etc., in its regulations and education efforts" is because, to date, members of key state legislative committees, MFWP, and MDOL have engaged in misleading practices to keep the public in the dark regarding which agencies have supervisory jurisdiction over predatory animal, or more specifically, coyote and red fox trapping and snaring on public lands in Montana.

Final note – the key to maintaining the public confusion around the convoluted language in DOL 81-7 and FWP 87-1, is the often-included phrase "for the purposes of livestock protection" when referring to "predatory animal control" trapping and snaring. Understandably, most of the public assumes this refers to trapping individual or groups of problem animals found to be preying on or harassing livestock. Instead, **ALL** coyote and red fox trapping and snaring in Montana is considered "for the purposes of livestock protection" regardless of whether there is livestock nearby and no predation or harassment is required. The term "systematic destruction" of predatory animals as stated in 81-7 is not defined. In practice, however, it appears to mean all coyote and red fox are unprotected and can be trapped at any time, using any manner, and on Montana public lands, with no supervision by or accountability to MDOL or the citizens of Montana.

Montana Code Annotated 2021

TITLE 81. LIVESTOCK

CHAPTER 7. PREDATORY ANIMAL CONTROL

Part 1. Predatory Animal Control

81-7-101. Definition. For the purpose of this part, the term "predatory animal" includes coyote, red fox, and any other individual animal causing depredations upon livestock. *(this definition differs slightly from MFWP definition)*

81-7-102. **Department to supervise** *(key words to note target "supervised" species in both 81 and 87 statutes)* destruction of predatory animals -- cooperation with other agencies -- administration of money. (1) The department shall conduct the destruction and control of predatory animals capable of killing, destroying, maiming, or injuring domestic livestock or domestic poultry and the protection and safeguarding of livestock and poultry in this state against depredations from these animals. The department shall formulate the practical programs for accomplishing these objectives in this state and for carrying out the programs in an efficient and practical manner responsive to the need for control in each area of this state.

(2) **The department shall** adopt rules applicable to predatory animal control that are necessary and proper for **the systematic destruction of the predatory animals** by hunting, trapping, and poisoning operations and payments of bounties *(the rest of 81-7 relates to administering a bounty system and no rules related to the systematic destruction of predatory animals are found either by statute or administratively. By not developing rules or establishing an official program for implementing this statute, the public does not have a mechanism for input to predatory animal trapping and snaring on public or private lands)*. The department shall make field, area, range, or other orders and instructions, including orders and instructions to hunter and trapper personnel **and others** *(this seems to be the entry point for allowing unpaid/uncontracted private individuals to trap and snare under this law)*, that are appropriate in the various areas at different seasons of the year, taking into consideration the habits, presence, migrations, or movements of the animals and their attacks on livestock and poultry, either singly or in packs or bands.

(3) **The department shall** cooperate with authorized representatives of the federal government, including the biological survey and the fish and wildlife service, the department of fish, wildlife, and parks, boards of county commissioners, voluntary associations of stockgrowers, sheepgrowers, ranchers, farmers, hunters, and anglers, and corporations and individuals, in the systematic destruction of predatory animals by hunting, trapping, and poisoning operations.

(4) Section [81-7-103](#) and this section do not interfere with or impair the power and duties of the department of fish, wildlife, and parks in the control of predatory animals by the department of fish, wildlife, and parks as authorized by law *(as will be discussed in MFWP Title 87, since predatory animals are not supervised by MFWP, this section provides the mechanism by which MFWP can require non-resident predatory animal trappers to be licensed, as well as regulate predatory animal snaring offenses)*

TITLE 87. FISH AND WILDLIFE

CHAPTER 1. ORGANIZATION AND OPERATION

Part 2. Department of Fish, Wildlife, and Parks

87-1-201. Powers and duties. (1) **the department shall supervise** all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals *(predatory animals are not included under MFWP powers and duties)* of the state and may implement **voluntary** programs that encourage hunting access on private lands and that promote harmonious relations between landowners and the hunting public. The department possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) **the department shall** enforce all the laws of the state regarding the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(7) Except as provided in subsection (12), the **department is authorized** to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of Title 87, chapter 2, that in its judgment will accomplish the purpose of chapter 2.

87-1-301. Powers of commission. (1) Except as provided in subsections (6) and (7), the commission:

(a) **shall** set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for

the fulfillment of all other responsibilities of the department related to fish and wildlife as provided by law;

- (b) *shall* establish the hunting, fishing, and trapping rules of the department;

CHAPTER 2. FISHING, HUNTING, AND TRAPPING LICENSES

Part 1. General Provisions

87-2-101. Definitions. As used in Title 87, chapter 3, and this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(8) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal **not otherwise legally classified by statute or regulation of this state.** *(as used in 87-1-201;301 this category would include red fox and possibly any other individual animal depredating on livestock, hence the need to exclude by reference to other statutes such as 81-7 or regulations)*

(11) **"Predatory animals" means coyote,** weasel, skunk, and civet cat. *("predatory animals" does not occur anywhere in primary wildlife categories identified in powers and duties of MFWP 87-1-201 or Fish & Game Commission 87-1-301. It does occur in Chapter 2, Part 6 – see following section - so it MUST be defined for this chapter to allow non-resident trapping licenses of predatory animals; this definition does not include red fox)*

Part 6. Furbearer Licenses

87-2-603. Class C-2--nonresident trapper's license. (1) A person not a resident, as defined in [87-2-102](#), who is 12 years of age or older, upon making application and payment of a fee of \$250 to the department, is entitled to a nonresident trapper's license that authorizes the holder to trap and snare **predatory animals** *(MFWP definition includes coyote so MFWP is allowed to establish this regulation under 81-7-104)* and **nongame wildlife** *(MFWP definition can include red fox and any other animal depredating on livestock so MFWP is allowed to establish this regulation under 81-7-104)* within the state. The trapping or snaring is permitted only after October 15 of each license year and in the manner provided by law and the rules of the commission and at the places that may be designated in the license.

CHAPTER 5. WILDLIFE PROTECTION

Part 1. Nongame and Endangered Species

87-5-102. Definitions. As used in this part, the following definitions apply:

(6) "Nongame wildlife" means a wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other wild animal not otherwise legally classified by statute or regulation of this state. **Animals designated by statute or regulation of this state as predatory in nature are not classified as nongame wildlife for purposes of this part.** *(since red fox is not defined as a predatory animal by MFWP, it and any other individual animals depredating on livestock, per MDOL 81-7, must be excluded from the definition of "non-game wildlife" otherwise it would allow MFWP to protect them under this regulation)*

CHAPTER 6. FISH AND WILDLIFE CRIMINAL PROVISIONS

Part 1. General Provisions

87-6-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(19) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal **not otherwise legally classified by statute or regulation of this state.** *(again, the need to exclude red fox and any other individual animals depredating on livestock per MDOL 81-7)*

(24) "**Predatory animal**" means coyote, weasel, skunk, and civet cat. *(similar to Ch. 2, predatory must be defined for Ch. 6 since it is used in Part 4 and Part 6 – see below)*

(33) "Trap" means to take or harvest or participate in the taking or harvesting of **any wildlife protected by state law** by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices. *(We could not find a specific reference to protected vs unprotected wildlife in statute. Since 81-7 calls for the "destruction" of predatory animals and no rules or regulations have been adopted by MDOL regarding predatory animals, it seems reasonable to assume they are "unprotected". Further 87-1-201 uses "protection" multiple times for the other categories of wildlife suggesting that by leaving predatory animals out of 87-1-201 they are unprotected. See 87-6-401(b) for additional support for this conclusion.)*

Part 4. Hunting Offenses

87-6-401. Unlawful use of equipment while hunting. (1) A person may not:

(b) use any recorded or electrically amplified bird or animal calls or sounds or recorded or electrically amplified imitations of bird or animal calls or sounds to hunt wildlife **except for predatory animals, wolves, and those birds not protected by state or federal law;** *(the highlighted section of this sentence suggests predatory animals are "unprotected")*

Part 6. Trapping Offenses

87-6-301. Hunting, fishing, or trapping without license. (1) Except as provided in [87-2-311](#) and subsection (2) of this section, a person may not:

(d) trap or attempt to trap **predatory animals** or nongame wildlife without a license, as prescribed in [87-2-603](#), if that person is not a resident;

87-6-601. Trapping and snaring offenses. (1) A person may not use a trap or snare for the purpose of trapping or snaring a fur-bearing animal, a **predatory animal** *(MFWP definition includes coyote)*, or a **nongame species** *(MFWP definition can include red fox and any other individual animal depredating on livestock)* unless: *(first time predatory animal is used as a primary classification category on par with those described in 87-1-201 and 301 and giving MFWP limited regulation on methods of trapping and snaring of predatory animals)*

(a) the trap or snare is tagged with a metal tag bearing an individual identifying number issued by the department or the owner's name and address unless the person is trapping or snaring on the person's land or an irrigation ditch right-of-way contiguous to the person's land; and

(b) the trap or snare is set in a manner and at a time so that it will not unduly endanger livestock. A person who injures livestock in a trap or snare is liable for damages to the owner of the livestock.



November 7, 2024

Via email to:

fwpwd@mt.gov

Email referenced in online portal submission.

Montana Fish and Wildlife Commission
Montana Department of Fish, Wildlife and Parks
Wildlife Division
PO Box 200701
Helena, Montana 59620

Re: Fall 2024-Winter 2025 Wolf and Other Species Trapping Regulations

Dear Montana Fish and Wildlife Commission,

Thank you for the opportunity to comment on the proposed Fall 2024-Winter 2025 Wolf and Other Species Trapping Regulations (hereafter, 'the Proposal'). The Greater Yellowstone Coalition (GYC) is a regional conservation organization based in Bozeman, Montana. Its five field offices, strategically placed in Idaho, Wyoming, and on the Wind River Indian Reservation, create opportunities to work with all people to protect the lands, waters, and wildlife of the Greater Yellowstone Ecosystem now, and for future generations. For more than 40 years, GYC and our 100,000 supporters from across the country have advocated for a science-driven, collaboration-focused, and forward-thinking approach to keeping lands wild, rivers free-flowing, and iconic wildlife moving throughout a connected and vibrant landscape. GYC's supporters have a strong interest in ensuring state wildlife management is science-based and accounts for the valuable ecological, economic, and social roles of the iconic wildlife species in our region.

Below, we highlight several concerns regarding the Proposal. In short, we recommend that the Commission proactively implement regulations that minimize the risk of incidental take of grizzly bears (i.e., criteria for legal foothold traps and snares) during non-denning periods inside the geographic scope identified for reduced trapping season dates, rather than waiting until an incidental capture has occurred to apply such requirements.

More information regarding our rationale is provided below. Thank you for your time and consideration.

Sincerely,

Brooke Shifrin
Wildlife Program Manager
Greater Yellowstone Coalition

Recommendation: Proactively implement regulations that minimize the risk of incidental take of grizzly bears (i.e., criteria for legal foothold traps and snares) during non-denning periods inside the geographic scope identified for reduced trapping season dates, rather than waiting until an incidental grizzly bear capture has occurred to apply such requirements.

Rationale for implementation of proactive regulations:

Risk of incidental take and underreporting:

Wolf trapping activities could lead to incidental take of grizzly bears, or conflict incidences at trap sites. Montana Fish, Wildlife & Parks (FWP's) draft wolf management plan and EIS include incidental capture data. The agency does not distinguish incidental capture data following implementation of snaring in some geographies, but does describe 310 incidental capture incidences from 2018-2022, with an increase in the number of incidental captures in wolf sets (24% of total captures, 10% attributable to snaring) relative to the previous 5 years and prior to allowance of snaring (draft MT Wolf EIS, page 62)¹. While no grizzly bears have been documented in incidental captures in the last several years, a wide range of other species have been taken (e.g., mountain lions, black bears, wolverines), thus indicating the heightened risk for grizzly bears.

Gooliaff (2021) examined the number of non-target lynx reported by trappers and hunters annually through British Columbia with actual fur sale records by trappers from the same traplines, and changes in the reported level of hunter takings after more compulsory inspection requirements were implemented in 2012. Comparing trapper reports with fur sales suggested that "There is a high rate of noncompliance with trappers compulsory reporting lynx; during 2009-2018, a total of 322 lynx were reported in the fur sales records and only 227 lynx were compulsory reported by trappers." Furthermore, after more compulsory inspection was implemented in 2012 researchers found even greater disparity in reported non-target captures by hunters; "The annual resident hunter harvest reported in the Kootenay Region increased by 580% over that reported prior to 2012." This example illustrates the possibility that incidental grizzly bear trapping could pose a greater threat than accounted for in the Proposal due to under-reporting. Implementation of proactive regulations for minimizing the risk of that incidental take during non-denning periods is a prudent measure for mitigating the risk of non-target captures in the first place. This is one example of an opportunity for Montana to strengthen regulatory mechanisms for sustainably managing grizzly bear mortality, in turn creating less vulnerabilities to achieving unmet recovery goals (e.g., establishment of grizzly bears in the Bitterroot ecosystem) and ensuring delisting is attainable and durable.

Rationale for geographic scope of regulations:

So long as grizzly bears are federally protected under the Endangered Species Act (ESA) across the contiguous lower-48 states, Montana must address issues concerning incidental take. The geographic scope identified within the Federal Court Order for reduced wolf trapping season dates encompasses existing recovery ecosystems within the state, along with important linkage areas between, and as such is a relevant geographic boundary for current recovery efforts and post-delisting conservation needs over the long-term.

¹ <https://fwp.mt.gov/aboutfwp/public-comment-opportunities/draft-wolf-mgmt-plan#:~:text=The%20draft%202023%20Montana%20Gray,social%20perspectives%2C%20and%20public%20input.>

Mortality management within Demographic Monitoring Areas:

The state of Montana has made commitments via two Interagency Conservation Strategies and a Tri-State MOA to ensure maintenance of important metrics of grizzly population health for sustained recovery within the Demographic Monitoring Areas of the Greater Yellowstone and Northern Continental Divide Recovery Ecosystems (NCDE and GYE). Incidental captures and associated risk for conflict and/or mortality, coupled with potential mortalities from unreported non-target captures, risk undermining state efforts to meet the objectives agreed upon within the previously mentioned Interagency agreements and plans. These Interagency agreements and plans are a prerequisite for delisting and would guide post-delisting conservation and management.

Linkage between recovery ecosystems is important:

Natural connectivity between grizzly bear recovery ecosystems is critical to the long-term health of grizzly bears. Because the grizzly bear was listed as a Threatened species in the ***contiguous*** lower 48 states under the ESA (40 Fed. Reg. 31,734 (July 28, 1975)), we maintain that it is important that grizzly bears be recovered and managed as a large, well-connected Northern Rockies metapopulation. Connectivity between the NCDE and GYE populations is key to restoring the metapopulation structure that historically characterized grizzly bear presence within the intermountain west (Merriam 1922, Picton 1986, Craighead and Vyse 1996). Due to connectivity between NCDE grizzly bears and Canada, the NCDE contains a potential source population able to provide genetic diversity to other subpopulations in the northwestern United States. Genetic isolation poses a threat to self-sustainability of the GYE grizzly bear population over the long-term (Haroldson et al. 2010, Breitenmoser et al. 2001, Hedrick 1996, Hedrick, and Gilpin 1996).

Management that restores and supports a metapopulation structure will be important to the future of grizzly bears in the United States (Proctor et al. 2005). Population fragmentation reduces genetic variation over the long-term and heightens the risk that wildlife populations will be unable to adjust to environmental shifts over time. Globally, habitat fragmentation poses threats to populations of brown bears (McLellan et al. 2017). *Demographic* connectivity between sub-populations of grizzly bears is the most robust strategy for ensuring resilience of lower-48 grizzlies in the long-term. The U.S. Fish and Wildlife Service Grizzly Bear Recovery Plan (1993) states, “Ideally, preserving linkage between sub-populations is a more legitimate long-term conservation strategy than are attempts to manage separate island populations” (pp 24, Needs for Recovery). The plan also states, “Linkage zones enhance the viability of populations that are separated by some distances by facilitating the exchange of individuals and maintaining demographic vigor and genetic diversity” (pp 24, Needs for Recovery), and “One factor that may affect the sustainability of grizzly bear populations in the future is the ability of individual animals to move between ecosystems.” It is critical to consider how the state regulatory framework will impact *demographic* connectivity between subpopulations, given the importance of *demographic* connectivity for both long-term resilience of the lower-48 listed entity under the ESA and achieving recovery in other grizzly bear recovery ecosystems. While Montana has solidified a commitment to ensuring genetic connectivity through translocations, evidence suggests natural dispersal of individuals between populations is the most effective strategy for establishing both genetic *and* demographic connectivity (Clobert et al. 2012, Crooks and Sanjayan 2006). This is because female grizzly bears are unlikely to disperse far from their mothers’ home ranges, thus indicating that occupancy by males and females in areas between recovery ecosystems is needed to support the exchange of both sexes between populations that characterizes demographic connectivity (Costello et al. 2020).

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November 7, 2024

Montana Fish and Wildlife Commission
P.O. Box 200701
Helena, Mt 59620-0701

Re: Additional Fall 2024–Winter 2025 Wolf and other Species Trapping Regulations Within and Outside the Geographic Scope Identified by Federal Court Order

Dear Commissioners:

Thank you for the opportunity to provide comments on the proposed trapping regulations. Montana Farm Bureau (MFBF) is the state’s largest agricultural organization serving nearly 20,000 member families. Our members raise a wide variety of crops and livestock on public and private land while often serving as front line advocates for responsible natural resource management. Our members value trapping as an important tool in predator management.

The Montana Wool Growers Association (MWGA) is comprised of hundreds of families and individuals throughout Montana who rely on sheep production as a primary source of income. Predation accounts for approximately half of all sheep and lamb losses in Montana. Predator control is an important issue for MWGA members. Sheep producers need the ability to trap and snare predators on public and private lands to maintain viable operations.

While MFBF and MWGA disagree that trapping poses any sort of tangible risk to grizzly bears, we can understand that given current litigation pressures, the commission must consider further regulation. We oppose the restriction of the shortened wolf trapping season. However, we do appreciate that this proposed rule is limited geographically to areas with the greatest potential for conflict.

Montana livestock producers rely on carefully monitored trapping and snaring activities to protect their livestock from predators. MFBF and MWGA support the continued availability of conscientious trapping and snaring to promote livestock protection. We appreciate the Department’s recognition that trapping and snaring for livestock protection are necessary activities that do not endanger non-target species. We also appreciate the Department’s effort to promote grizzly bear delisting with reasonable oversight and data collection. We commend the Department for crafting a reasonable compromise to collect that data without creating a large burden for livestock producers.

Trapping and snaring remain controversial topics that generate intense feelings. It is important to our members that the names and contact information of livestock producers who rely on trapping

and snaring for livestock protection be protected. MFBB and MWGA would prefer the names of the livestock producers for whom trappers are performing livestock protection services not be disclosed. We understand that the Department has chosen to move forward with collecting that information. We urge the Department to implement all available protections to keep the names and contact information secure and confidential. Livestock producers have a right to privacy around this controversial topic.

Thank you for the opportunity to comment and for considering agriculture's perspective on the proposed regulations.

Sincerely,



Cynthia Johnson

Montana Farm Bureau Federation, President



Samuel Ortmann

Montana Wool Growers Association, President

November 6, 2024

To the Fish and Wildlife Commission,

There is nothing more enjoyable than walking in our beautiful woods with my dog. But the recent amendment posed by Commissioner Burrows to eliminate setbacks on Ravalli County roads could likely eliminate my beloved dog companion.

Please STRIKE Burrows' ammendment to eliminate setbacks on roads in Ravalli County, and *increase* setbacks to 500 ft in high use areas in Ravalli County!!

Consider these negative outcomes if Burrows' ammendment in included:

- The amendment will put pets and pet owners at risk.
- The amendment will put non-target wildlife at risk.
- The amendment infringes on the ability of pet owners and wildlife viewers to use public roads and enjoy their public lands.

Please consider adding:

- Mandatory trapping signage to warn public land users that traps are in the area.
- Mandatory 24-hour trap checks
- Mandatory reporting of intentional and incidental trappings and snarings.
- Prohibit the use of bait.
- Close wolf hunting and trapping in management units with Chronic Wasting Disease (CWD).
- Quota overages must be considered in current or subsequent season quotas.

Sincerely,

-Marci Smith

Victor, Montana



November 7, 2024

Dear Chair Robinson and Commissioners,

Re: Public Comment on Additional Fall 2024–Winter 2025 Wolf and other Species Trapping Regulations Within and Outside the Geographic Scope Identified by Federal Court Order

Our following comment on the proposals are on behalf of our board of directors and our constituents.

Wolf Trapping Dates:

We are in support with the wolf trapping season dates January 1 - February 15 inside the geographic scope as per the court order.

We advocate for these dates for outside the identified area as well.

However, the proposal falls short in trying to avoid the potential incidental trapping of grizzlies.

Grizzly Expansion

Firstly, it is well known, grizzlies are expanding, as is the goal for their recovery. In April 2024, FWP confirmed a video of a grizzly in the Bear Paw Mountains South of Havre. On October 21, 2024, FWP's press release stated, "Bear populations are expanding, and although bear encounters are rare in most of central and eastern Montana, there are known black and grizzly bears in all kinds of habitats along the Hi-Line. This includes the Little Rockies and Bear Paw Mountains, the Missouri and Milk River corridors, and potentially anywhere on the prairie."

These are areas open to wolf trapping the first Monday after Thanksgiving through March 15th.

Climate Change

Furthermore, the findings show some grizzlies are entering their dens later and emerging sooner. With climate change this is expected to change even more and the trapping dates should be adjusted accordingly.

Grizzly Trappings

In addition, recent studies revealed the mystery of grizzlies missing digits and parts of their paws. The clean straight cuts were evident in the x-rays. The smaller leg-hold and various size conibears, i.e. body crushing traps were determined to be culprits. Not surprising, these traps are commonly set with bait on the other side and is the standard trapping method of animals such as marten and fisher. The trap setup results in the bear reaching through the trap for the bait. The grizzly unable to remove the trap and with the the blood supply cut off, eventually loses the digits, paw, or parts thereof, along with the trap.



Image courtesy: Steven Chapman

Missing toes detected through research



Opportunistically detected evidence of traps on bears' feet and the partial loss of toes



A wildlife center provided an image of a cub who starved to death with a conibear trap attached to the paw.

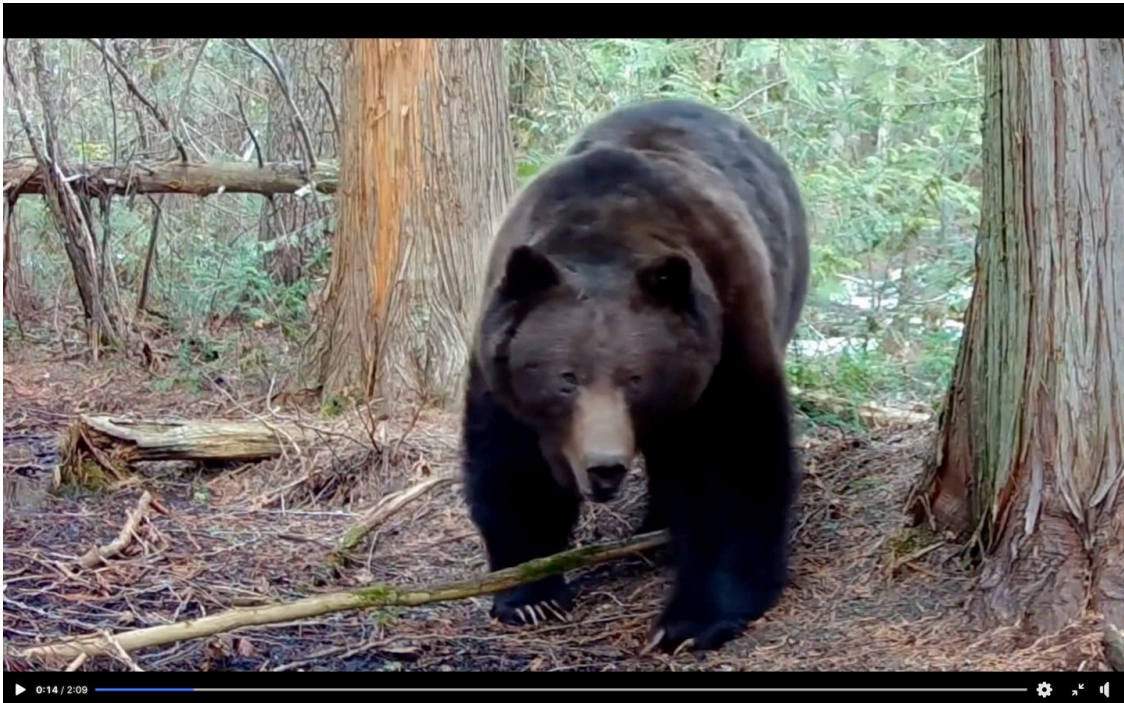


Cub's paw smashed in a conibear trap starved to death!

photo courtesy: Northern Lights

Although the incidental paw trappings may not always result in their death, the pain it must cause is undeniable. The grizzly is compromised in digging a den, foraging, defending itself, and could pose a significant safety risk to humans.

We have received other images of grizzlies missing a paw or toes, including a grizzly in Montana this past spring caught on film in NW MT. Note left front paw.



Furbearer Trapping Season

Yet, the trapping season for furbearers, in which the amputations from some of these implicated traps occurs, begins before the Jan 1st wolf trapping opening date which is set to avoid grizzlies. Montana's trapping season for animals such as bobcat, marten, and fisher begins December 1st. Other furbearer's trapping season, e.g. mink, otter, beaver, starts November 1. ~ 1,000 marten are reported annually killed by trappers in Montana.

Trapping for species classified as non-game is highly unregulated, e.g. badger, raccoon, red fox, and predatory animals, i.e. coyote, red fox, striped and spotted skunk and weasel, and are open year-round.

Therefore, for the goal to try and reduce the potential trapping or snaring of a grizzly, and adhere to the ESA, **all** trapping should be limited to the allocated grizzly denning season dates, Jan 1- February 15, and cease when and where a grizzly is present to avoid their potential capture.

Predator and Nongame Animal Trapping Inside geographic scope identified by federal court order:

This proposal raises more questions than it addresses for the stated design to inform and limit the potential incidental trapping of grizzlies.

1. How will a supplemental trapping permit be required when a trapping permit in-and-of-itself is not required for residents to trap predators and nongame?
2. Since trapping of predators and nongame are legal year-round, why does this not go into effect until Dec 1st?
3. The affidavit fails to have the livestock producer sign it.
4. This proposal omits the affidavit for the livestock producer who traps for example, coyotes, themselves.
5. Why aren't all trappers required to purchase a trapping license?
6. Why isn't reporting of all trapping of target and non-targets, required in an annual mandatory survey?
7. How will the non-target trapping reporting requirement be enforced for those trapping for livestock protection?
8. How and by whom will this be monitored and enforced?

Authority

On multiple occasions, FWP has stated they do not have jurisdiction over predators, that they are the bailiwick of the department of livestock.

According to the Montana wolf and trapping regulations,

LAWS AND RULES

These laws and rules apply to trapping and hunting of furbearers, predatory animals, and nongame wildlife. They do not apply to trapping that is regulated by Title 81 (Livestock), Montana Code Annotated.

Pg 6 of 2022 regs: - Predators and nongame species are unprotected by federal and/or state law or regulation

Pg 2 2023 regs: Statutes and other information, including other agencies' restrictions, are provided as a courtesy and do not fall under Commission authority. Dustin Temple, Director.

Furthermore, per the Montana 2018-2019 Trapping Advisory Meeting, the final recommendations compiled by FWP states:

5. The Committee recognizes that FWP's position is that it does not have authority over trapping of predators (defined as coyote, red fox and any other individual animal causing depredations upon livestock) when done for purposes of protecting livestock. However, to reduce confusion, the Committee recommends that FWP clarify and describe the "firewall"/ difference between damage control and other kinds of trapping and the associated legal statutes, etc., in its regulations and education efforts as follows:

"Per MCA 81-7-101 and 81-7-102 Montana Fish, Wildlife and Parks does not have authority over trapping of predatory animals for purposes of livestock protection. This applies to livestock producers or their agents trapping for coyote, red fox and any other individual animal causing depredations upon livestock. Such persons trapping specifically for the purposes of livestock protection are exempt from any Fish, Wildlife and Parks trapping regulations. All other types of trapping are regulated by Montana Fish, Wildlife and Parks under MCA 87-1-201 and 87-1-301."

The Committee also recommends that FWP facilitate dissemination of information to all trappers including predator control trappers on methods that would reduce non-target capture.

MCA Codes

Montana Code Annotated 2023

TITLE 81. LIVESTOCK

CHAPTER 7. PREDATORY ANIMAL CONTROL

Part 1. Predatory Animal Control

81-7-101. Definition. For the purpose of this part, the term “predatory animal” includes coyote, red fox, and any other individual animal causing depredations upon livestock.

81-7-102. Department to supervise destruction of predatory animals -- cooperation with other agencies -- administration of money. (1) The department shall conduct the destruction and control of predatory animals capable of killing, destroying, maiming, or injuring domestic livestock or domestic poultry and the protection and safeguarding of livestock and poultry in this state against depredations from these animals.

(2) The department shall adopt rules applicable to predatory animal control that are necessary and proper for the systematic destruction of the predatory animals by hunting, trapping, and poisoning operations...

(3) The department shall cooperate with authorized representatives of the federal government, including the biological survey and the fish and wildlife service, the department of fish, wildlife, and parks, boards of county commissioners, voluntary associations of stockgrowers, sheepgrowers, ranchers, farmers, hunters, and anglers, and corporations and individuals, in the systematic destruction of predatory animals by hunting, trapping, and poisoning operations.

Neither of the following MCA's include predators or predatory animals.

87-1-201. Powers and duties. (1) Except as provided in subsection (13), the department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary programs that encourage hunting access on private lands and that promote harmonious relations between landowners and the hunting public. The department possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) Except as provided in subsection (13), the department shall enforce all the laws of the state regarding the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

87-1-301. Powers of commission. (1) Except as provided in subsections (6) and (7), the commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department related to fish and wildlife as provided by law;

Coyotes

While the proposals differentiate requirements for what is referred to as recreational coyote trappers and trapping for livestock protection, no information is provided as what that looks like and what composition makes up which.

Per FWP reports, "**coyote harvest** during the 2022–2023 season experienced a 35.45% decrease from last year with a total estimate of 10,769 coyotes harvested. Previous years show almost 25,000 coyotes annually killed. This is from the voluntary trapper survey." A survey that only roughly 1/3 of licensed trappers return.

Years of records show in Montana coyotes have been the number one reported targeted species responsible for incidental trappings and snaring. ~ 6 grizzlies were reported caught in trap sets for coyotes. In the last few years, wolves are now the number one target of the reported incidental non-targets.

Yet, animals, such as coyotes, classified as predators can be trapped year-round, unreported, and no trapping license required of residents. We fail to see how a supplemental permit and an affidavit listing the name of a livestock producer will be sufficient to reduce potential grizzly trappings.

48 hours after FWP is aware of and has publicly noticed the capture of any grizzly bear: This proposal is riddled with loopholes, again completely failing to protect grizzlies from trapping and snaring, but creates a smoke screen to the general public. 7:9

Let's begin with-

• From **date of adoption to December 31, 2024, and from Feb. 16, 2025, to August 31, 2025, all recreational trappers** inside of the geographic scope identified by federal court order, except those using water sets or live cage traps, must adhere to the following regulations:

• All foothold trap ground sets regardless of target species must have an inside jaw spread of less than or equal to 5 1/2 inches. • Snares are not allowed unless they meet all the following criteria: o A breakaway lock device installed on the loop end designed to release when more than 350 pounds of force is applied; Rev. 03/06/2024 o The snare is fastened to an immovable object solidly secured to the ground (i.e., the use of drags is unlawful); and o The top of the loop of the snare is no more than 26 inches above the ground; in snow, 26 inches is measured from the compacted snow in a trapper's footprint made by the full weight of the trapper.

So in other words:

1. Only after the department knows of the trapping or snaring of a grizzly bear, leghold trap jaw spreads will be reduced and some snare modifications will be required.

2. For these requirements to be implemented, 48 hours will have passed after FWP is aware of the grizzly trapping and has provided public notice which implies another 24 hours to advise the public and likely another 24 hours before it goes into effect, e.g. 72-96 hours later.

3. In addition, we have NO required trap check time, other than two limited exceptions, i.e. 48-hours for bobcat trap sets in designated lynx protection zones and for wolves. Therefore, legally, a grizzly could be trapped for a week or more before discovery.

4. These after-the-fact grizzly trapping requirements do not apply during wolf trapping season, Jan 1 - Feb 15, within the identified geographic scope.

5. They do not apply anywhere outside the geographic scope at any time even though grizzlies are expanding. Per the supplement, "**Recreational trappers and trappers trapping for livestock protection outside the geographic scope identified by federal court order: No change from 2023 regulations.**"

6. And within the limited space and time, the trap/snare requirements only apply to "recreational" trappers. Thus, trappers for livestock protection are again exempt, regardless if a grizzly was known trapped or snared.

7. There is no proposal to address conibear traps or elevated smaller traps which grizzlies are shown to be getting trapped in, too.

8. In the supplemental document, FWP references the Association of Fish and Wildlife Agencies (AFWA) and recommends “Best Management Practices” (BMPs) for improving trapping efficiency, selectivity, and animal welfare. However, the BMPs research were based on 24-hour trap checks. The AFWA even recommends trappers check their traps at least daily. Yet, FWP does not make a 24-hr or daily trap check recommendation. This, despite the evidence it would help reduce the prolonged pain and suffering and facilitates potential recovery for those trapped, such as grizzlies. The findings are the longer an animal is trapped, the greater the damage, and that beyond 24-hrs, the elements wreck havoc and frostbite sets in.

Montana FWP proclaims for the public process they met with the Montana Trappers Association, Montana Fur Harvesters, and representatives of livestock producers. It is plainly clear who they identify as stakeholders. Furthermore, FWP states, *“regulations are designed to maintain trapping opportunity and to further inform and limit potential incidental take of grizzly bears by recreational and livestock protection trapping efforts in the area identified by federal court order.”* From the proposals, maintaining trapper opportunity is a given. It is demonstrated though FWP is trying to abide by the court order with the wolf trapping dates and within the geographic scope identified by the courts.

In closing, the regulations to inform and limit potential incidental trapping of grizzlies miss the mark by a long shot. FWP is apparently attempting to do the very minimum required by the court order for grizzly protections and orchestrates a facade that they are doing so much more to finally address unregulated predatory trapping to avoid grizzlies. Yet, we are troubled by the authority and enforcement of these proposals. We also find the trapping laxity, loopholes, and exceptions are a disservice to the grizzly bear, and in particular as a protected species, are insulting to the court, and disingenuous to the general public who entrusts FWP to properly manage wildlife.

With all due respect,

KC York/president on behalf of our board of directors and constituents
Trap Free Montana
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Hamilton, MT 59840

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*References are available upon request.

9:9



November 7, 2024

Chair Robinson, Commissioner Burrows, and
Commissioners,

Re: Setback Amendment Ravalli County

To begin with, we are Ravalli county residents. Some long-timers, some natives, and, of course, some newbies. We love the outdoors, our Bitterroot National Forest, the wildlife, and for a variety of activities, including with our beloved dogs. Several years ago, we sat on the FWP setback review committee for Region 2. Unfortunately, our diverse group, including trappers and non trappers, could not come to a consensus and little information was provided in summation of all our efforts.

We find Commissioner Burrows amendment for "No Setbacks Required for Furbearers and Wolves" confusing at best, and potentially disastrous at worse.

Firstly, the amendment states, "I move the Commission amend the "No Setbacks Required for Furbearers and Wolves" to the following:" However, we did not see anywhere a proposal to eliminate setbacks for furbearer and wolves??

Secondly, Region 2 Commissioner Burrows amendment for "No Setbacks **Required for Furbearers and Wolves**" says it would apply **during the designated trapping season**. Whereas the wolf trapping season currently is set in Ravalli county for January 1st - February 15, the furbearer trapping season begins Nov 1 and ends April 15. That would mean the significant safety threat, and especially to the naive and unaware public, would run 5 1/2 months on our cherished public lands, whereby no signage is required and traps and snares can legally be secreted right on the closed roads.

Thirdly, the request is for all Ravalli county roads, i.e.

"I move the Commission amend the "No Setbacks Required for Furbearers and Wolves" to the following: Region 2: All of Ravalli County roads closed to motor vehicle and OHV use during the designated trapping season. Roads seasonally closed to motor vehicles and OHV's, but are lawfully open for over snow vehicles are included."

We have ~ 1450 miles of public roadways in our county with the Road Department maintaining about 1/3 of them. We are not aware of any county roads closed to motor vehicles and OHVs, but open to snowmobiles and in which this would apply??

Thirdly, the exceptions for not removing the trap setbacks lists only 4 public roads and all in the Bitterroot National Forest. The 4 are groomed trails. Winter enthusiasts advice us that **at least 16 heavily used closed public roads in the Bitterroot National Forest** would succumb to the trap setback removal if this amendment were to pass.

The Bitterroot National Forest is 1.6 million acres. According to estimates shared with us previously from F&W Commissioner Stuker regarding closed roads, The Bitterroot National Forest contains an estimated:
1801.65 miles of open roads,
905.70 miles of closed roads,
Totaling 2707.35 miles with 33.45 per cent closed.

Despite widespread opposition to the removal of trap setbacks on public roads closed year-round to motorized vehicles, except for snowmobiles, the Commission still passed the proposal in 2019, and with some expressing regrets, personally to us, afterwards.

Many closed public roads, i.e. 1/3 of the Bitterroot forest roads encompassing ~ 900 miles, are coveted by outdoor enthusiasts during the winter. The Bitterroot is stock full of such people. These national forest public roads are used for hiking, snowshoeing, horseback riding, running, mountain biking, cross

country skiing, dog walks, sledding, getting the kids out in nature, and searching for the perfect Christmas tree.

The current 50' trap setback and 150' for wolves are highly inadequate in preventing people and pets from getting trapped or snared. Worse is they only apply to public roads designated with administrative sign or numbers. With increased off-road, back-country use, this threat is only going to worsen. Unlike Region 1 and 3, we have no 500' extended trap setbacks in the Bitterroot or in Region 2.

This complete removal of trap setback requirements on "closed roads," i.e. both closed annually and seasonally, many of which are heavily used for winter recreation by families, including children and pets, will certainly compromise their safety.

Furthermore, on these very roads, injurious massive leg-hold traps, deadly snares, and body crushing conibear traps can legally be baited and secreted directly on and next to the road. No trapping signage is required.

To be clear, this amendment now extends the trap setback removal to roads seasonally closed.

What this amendment does is it caters to a minuscule percentage of the population while jeopardizing public safety and holding our public lands hostage for our safe use. ~ 1/3 of 1 percent of Montanans purchase a trapping license.

Meanwhile, we've heard from a number of Bitterrooters, who recreate outdoors throughout the winter, and are confused and upset by this proposed amendment that they just heard of. To better understand the amendment, the purpose, and at who's request this amendment is for, attempts were made to discuss it with Commissioner Burrows. Commissioner Burrows was not available by phone, his voicemail was full, and as of Nov 7th, the

day written comment closes, we have not received a response from emails sent.

An average of ~ 40 dogs annually make it on the incidental non-target trapping reports, including from Ravalli county. Not all make it on the reports. Not all make it home, alive. We help pay for medical bills. We hear the painful unforgettable stories. We know of people, too, caught in traps, themselves, and very close calls with children.


To better understand incidental dog trappings, a trapping dog study was requested a few legislative session ago by Rep. France It was to be conducted by an EQC interim committee. However, it was tabled in response to an alleged phone call, with the department that FWP Director Worsech said the department would handle it. That has yet to occur.

It's just a matter of time before someone gets seriously hurt from trapping. Trap setback removals set the stage for this to more easily occur.

The department does not indicate support for this amendment, but does heed a warning if it were to pass. We urge you to prioritize the public, our children, grandchildren, and pets, and do the right thing.

Oppose this amendment.

Thank you,



KC York/president

On behalf of our board of directors and constituents

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