



MONTANA FISH AND WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

THE **OUTSIDE** IS IN US ALL.

Meeting Date: Dec. 14, 2023

Agenda Item: Amendments to Administrative Rule of Montana (ARM) 12.9.1401 (Grizzly Bear Policy) and adoption of New Rules I through XIII.

Action Needed: Final Approval

Time Needed on Agenda for this Presentation: 15 minutes

Background: Currently, only ARMs 12.9.1401 and 12.9.1403 address state management of grizzly bears. Senate Bill (SB) 295, passed during the 2023 Legislative Session, further clarifies how Montana will manage delisted grizzly bears relative to human safety, conflict with livestock, and genetic exchange. SB 295 also requires the Fish and Wildlife Commission (Commission) to adopt rules prior to delisting.

The Montana Secretary of State (SOS) defines and implements the ARM development and amendment process, including process steps and timeline. This includes opportunities for public participation. At their June 8, 2023, meeting, the Commission approved the initiation of ARM rulemaking. Draft rule language was adopted by the Commission at their August 17, 2023, meeting.

Public Involvement Process and Results:

The public had an opportunity to submit oral and written comments on the draft rule language after the draft rules were published in the Montana Administrative Register (MAR) on October 20, 2023. The public's opportunity to comment was consistent with the Montana Administrative Procedure Act (MAPA) and the Secretary of State's (SOS) rulemaking procedure. The public received specific instructions, via the proposal notice, on how to submit written comments, as well as specific instructions concerning the date and method of participation for oral comments on the proposed draft rules/amendments. As per the proposal notice, a public hearing was held on November 17, 2023, and the public had the opportunity to submit comments until 5:00 p.m., on November 20, 2023. The comments received, written and oral, were summarized by FWP staff, and a response was drafted for each summarized comment. The comments and responses become part of the official record and are included in the adoption notice for consideration by the Commission prior to any final action (including adoption/amendment) on the rules, as proposed. The public was allowed to make oral comments at previous Commission meeting; however, any comments made previously are not considered part of the official rulemaking record (which is governed by the MAPA and SOS process) and will not be put in front of the Commission. Any oral public comments given at this meeting must be limited to the decision before the Commission, at this time, which is: should these new rules and amendments having gone through the formal MAPA/SOS rulemaking process be adopted as final?

Alternatives and Analysis:

There are two alternatives that the Commission can take: 1) modify the language of ARM 12.9.1401 and the New Rules, at which point, depending on how substantive the modification is, the modifications may have to proceed through the MAPA/SOS process again, or 2) reject the language of the New Rules and leave ARM 12.9.1401 as it currently is. The second option would not address Senate Bill 295's directive to the Commission to adopt implementing rules.

Agency Recommendation and Rationale: FWP recommends the Commission adopt as final the department's New Rules and amendments to ARM 12.9.1401.



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Proposed Motion: I move the Fish and Wildlife Commission to adopt, as final, the New Rules and the amendments to ARM 12.9.1401, as presented by the department.

Alternative Motion: I move the Fish and Wildlife Commission to amend the department's New Rules and/or amendments to ARM 12.9.1401 as follows: (insert changes here).