

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the adoption of the) NOTICE OF ADOPTION
amendment of ARM 12.9.1303)
pertaining to control methods of the)
gray wolf include nonlethal and lethal)
means)

TO: All Concerned Persons

1. On October 6, 2023, the Fish and Wildlife Commission (commission) published MAR Notice No. 12-615 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1121 of the 2023 Montana Administrative Register, Issue Number 19.

2. On November 3, 2023, a public hearing was held on the proposed amendment of the above-stated rule, via Zoom. The commission received both written and oral testimony comments by November 6, 2023.

3. The commission has adopted and amended the following rule from the proposal notice with the following changes based on comments received and after further review. New matter underlined, deleted matter interlined:

12.9.1303 CONTROL METHODS OF THE GRAY WOLF INCLUDE
NONLETHAL AND ~~LEGAL~~ LETHAL MEANS (1) through (6) remain the same and are adopted as proposed.

AUTH: 87-1-201, 87-1-301, 87-1-901, 87-5-105, 87-5-110, 87-5-131, MCA

IMP: 87-1-201, 87-1-301, 87-1-901, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-108, 87-5-131, MCA

4. The commission has thoroughly considered the comments and testimony received. A summary of the comments received, and the commission's responses are as follows:

COMMENT 1: Two commenters suggested that ARM 12.9.1303 should retain reference to the Montana Gray Wolf Management Plan and/or replace/update the reference to be concurrent with the most recent wolf conservation and management plan. The commenters are in opposition and do not support moving forward with this amendment.

RESPONSE 1: The commission believes any rule reference to a wolf conservation and management plan is inappropriate. Wolf plans contain recommendations to guide the decision-making processes in accordance with governing law.

COMMENT 2: One commenter said that the proposal for ARM 12.9.1303(2), presented during the August 2023 commission meeting contained the phrase "...for any lethal control decision...", and that this phrase was not present in the proposal for ARM 12.9.1303(3) during the September 2023 commission meeting.

RESPONSE 2: Inclusion of this language in the proposal for the August 2023 commission meeting was a clerical error. The phrase "for any lethal control decision" was previously used language that was ultimately removed from ARM 12.9.1303 in 2014. Unfortunately, the old language was mistakenly included in the materials for the August 2023 commission meeting. This mistake was remedied in the materials presented for the September 2023 commission meeting.

COMMENT 3: One commenter said that the title of ARM 12.9.1303 previously stated "LETHAL" during the August commission meeting and stated "LEGAL" during the September commission meeting. The commenter suggests the title should read "LETHAL."

RESPONSE 3: The commission agrees that this change is needed. This was a clerical oversight, and the ARM catchphrase now correctly references "LETHAL."

COMMENT 4: Two commenters said that because the September 2023 commission meeting violated public meeting laws, and there is an ongoing lawsuit pertaining to it, moving forward with the amendments to this ARM is unlawful.

RESPONSE 4: This comment does not require acceptance or rejection by the commission regarding the substance of the rules as proposed.

/s/ Alexander Scolavino
Alexander Scolavino
Rule Reviewer

/s/ Lesley Robinson
Lesley Robinson
Chair
Fish and Wildlife Commission

Certified to the Secretary of State January 2, 2024