



MONTANA FISH AND WILDLIFE COMMISSION FWP PROPOSAL & INFORMATION SHEET

THE **OUTSIDE** IS IN US ALL.

Meeting Date: September 24, 2026

Agenda Item: Administrative Rulemaking Petition – 24 Hour Trap Check Requirement

Action Needed: Decision to Approve or Deny Citizen Petition for Rulemaking

Time Needed on Agenda for this Presentation: 20 minutes

Background: A citizen petition from Footloose Montana and the Gallatin Wildlife Association was directed to the Commission on July 27, 2026, requesting that the Commission adopt an administrative rule requiring trappers to check every trap and snare set on public land at least once every 24 hours, regardless of the species pursued. The petition also requests that the Commission adopt penalty provisions for violations and that the Commission grant FWP rulemaking authority to implement the rule. Under the Montana Administrative Procedure Act (“MAPA”), an interested person may petition an agency to request the promulgation, amendment, or repeal of an administrative rule.

Public Involvement Process & Results: Written public comment will be accepted through September 18, 2026. The Commission will also solicit public comment at its September 24, 2026 special meeting during consideration of this agenda item.

Analysis & Alternatives: Under this provision of MAPA (§ 2-4-315, MCA), the Commission can either deny the petition or initiate a formal MAPA rulemaking process that would involve the solicitation of public comment and a hearing on the proposed rule, followed by subsequent Commission consideration of the adoption (or non-adoption) of the proposed rule. A decision to deny the petition or initiate rulemaking must be made within 60 days after submission of the petition and must be in writing and based on record evidence.

Alternative A: Approve the petition for rulemaking and initiate the MAPA rulemaking process for the proposed rule. FWP staff would assist the petitioner administratively with the MAPA rulemaking process and format the petitioner’s proposed rule according to the Montana Secretary of State’s requirements.

Alternative B: Deny the petition for rulemaking. The current Commission regulations related to checking traps would remain in place and there would be no new requirement for trappers to check their traps and snares at least once every 24 hours.

Agency Recommendation & Rationale: The Legislature has directed the Commission to “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 to “establish the hunting, fishing, and trapping rules” of FWP. *See* §§ 87-1-301(1)(a) and (b), MCA. The Commission generally sets hunting, fishing, and trapping regulations through seasonal rules that are adopted annually or biennially, and those seasonal regulations are specifically excluded from the requirements for a MAPA rulemaking process. *See* § 2-4-102(11)(b)(iv), MCA; *see also* § 87-1-202 (1), MCA (requiring annual and biennial Commission rules setting hunting, fishing, and trapping regulations to be published).



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Trap check requirements, including the existing species-specific trap check requirements for trappers targeting wolves and bobcats, have typically been adopted by the Commission as seasonal regulations rather than through MAPA rulemaking. (See *e.g.*, *2026 Montana Wolf, Furbearer, and Trapping Regulations*, at pp. 6 and 16). The only trapping-specific regulation adopted by the Commission through the MAPA process appears to have been adopted over 50 years ago. See ARM 12.6.1001 (authorizing the use of snare traps).

To the extent the proposed rule incorporates a specific penalty, an agency can generally only exercise penalty-imposing authority where the legislature has specifically and explicitly granted it in statute and directed the magnitude of the penalty. See *generally MTSUN, LLC v. Mont. Dep't of Pub. Serv. Regulation*, 2020 MT 238, ¶ 70, 401 Mont. 324, 472 P.3d 1154 (“Administrative agencies have only the powers specifically conferred upon them by the legislature.”). The Commission does not typically establish independent penalties for violation of its adopted regulations relating to hunting, fishing or trapping. Rather, penalties are typically established by the Legislature in either an offense-specific statutory provision (see *e.g.*, § 87-6-601, MCA [trapping or snaring offenses]) or as a residual Commission rule violation under § 87-6-201, MCA.

Proposed Motions:

Alternative A: Based on the petition’s contents, information presented to the Commission, and the Commission’s discussion, I move that the Fish and Wildlife Commission grant the citizen rulemaking petition submitted by Footloose Montana and the Gallatin Wildlife Association and authorize the initiation of the MAPA rulemaking process for consideration of the potential adoption of the requested rule.

Alternative B: Based on the petition’s contents, information presented to the Commission, and the Commission’s discussion, I move that the Fish and Wildlife Commission deny the citizen rulemaking petition submitted by Footloose Montana and the Gallatin Wildlife Association.