

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I pertaining to Grizzly Bear Demographic Objectives for the Northern Continental Divide Ecosystem and the transfer of ARM 12.9.103)

NOTICE OF PUBLIC HEARINGS ON PROPOSED ADOPTION AND TRANSFER

RECEIVED
AUG 30 2018
Ravalli County Commissioners

TO: All Concerned Persons

1. On September 18, 2018, at 6:30 p.m., the Fish and Wildlife Commission (commission) will hold a public hearing at Heritage Hall at Great Falls College-MSU, 2100 16th Avenue S., Great Falls, Montana, to consider the proposed adoption and transfer of the above-stated rules.

On September 19, 2018, at 6:30 p.m., the commission will hold a public hearing at Conrad High School, 308 South Illinois, Conrad, Montana, to consider the proposed adoption and transfer of the above-stated rules.

On September 26, 2018, at 6:30 p.m., the commission will hold a public hearing at the Holiday Inn Downtown, 200 S. Pattee Street, Missoula, Montana, to consider the proposed adoption and transfer of the above-stated rules.

On September 27, 2018, at 6:30 p.m., the commission will hold a public hearing at the Arts and Technology Building at Flathead Valley Community College, 777 Grandview Drive, Kalispell, Montana, to consider the proposed adoption and transfer of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on September 7, 2018 to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I GRIZZLY BEAR DEMOGRAPHIC OBJECTIVES FOR THE NORTHERN CONTINENTAL DIVIDE ECOSYSTEM (1) Upon delisting from the Endangered Species Act, management of the grizzly bear and its habitat in the Northern Continental Divide Ecosystem (NCDE) will be guided by the Conservation Strategy for Grizzly Bears in the Northern Continental Divide Ecosystem (NCDE Conservation Strategy). The department and federal land management agencies will endorse and commit themselves to the NCDE Conservation Strategy by entering

into a memorandum of understanding detailing their agreement to implement it. The department will be a signatory to the implementation memorandum.

(2) When and so long as the NCDE Conservation Strategy is in effect, the department and the commission shall, within their lawful authority to do so, maintain the recovered status of the grizzly bear in the NCDE by implementing interagency cooperation, population and habitat management and monitoring, and other provisions of the NCDE Conservation Strategy in accordance with the responsibilities described therein.

(3) Specific to population management in the NCDE, as described in the NCDE Conservation Strategy, the commission specifically adopts the following demographic objectives. The department shall:

(a) maintain a well-distributed grizzly bear population within the demographic monitoring area as described in the NCDE Conservation Strategy and maintain the documented presence of females with offspring in at least 21 of 23 bear management units of the primary conservation area and in at least six of seven occupancy units of Zone 1 at least every six years. Adherence to this objective will be evaluated by monitoring the presence of females with offspring (cubs, yearlings, or 2-year-olds) within defined geographic units of the NCDE;

(b) manage mortalities from all sources to support an estimated probability of at least 90% that the grizzly bear population within the demographic monitoring area remains above 800 bears, considering the uncertainty associated with all of the demographic parameter and further manage mortality within the following threshold objectives:

(i) using a 6-year running average, maintain estimated annual survival rate of independent females within the demographic monitoring area of at least 90% and a rate at or above the minimum level consistent with a projected probability of at least 90% that the population within the demographic monitoring area will remain above 800 bears based on population modeling;

(ii) using a 6-year running average, limit annual estimated number of total reported and unreported mortalities of independent females within the demographic monitoring area to a number that is no more than 10% of the number of independent females estimated within the demographic monitoring area based on population modeling and a number that is at or below the maximum level consistent with a projected probability of at least 90% that the population within the demographic monitoring area will remain above 800 bears based on population modeling;

(iii) using a 6-year running average, limit annual estimated number of total reported and unreported mortalities of independent males within the demographic monitoring area to a number that is no more than 15% of the number of independent males estimated within the demographic monitoring area based on population modeling.

(c) monitor demographic and genetic connectivity among populations by the following means:

(i) estimating spatial distribution of the NCDE grizzly bear population biennially; and

(ii) identifying the population of origin for individuals sampled inside and outside of the demographic monitoring area to detect movements of individuals to and from other populations or recovery areas.

AUTH: 87-1-301, MCA
IMP: 87-1-201, 87-1-301, MCA

REASON: The Northern Continental Divide Ecosystem (NCDE) is one of six recovery areas identified in the Grizzly Bear Recovery Plan. Grizzly bears in the NCDE are currently listed as threatened under the Endangered Species Act, although they have met their recovery criteria and may be proposed for delisting in the near future. The NCDE includes Glacier National Park, parts of the Flathead and Blackfeet Indian Reservations, parts of five national forests, Bureau of Land Management lands, and state and private lands. Recovery of the grizzly bear in the NCDE has been focused on a core recovery zone and a buffer area around it, identified as Zone 1. Together, these zones make up the Demographic Monitoring Area (DMA), where the objective is continual occupancy by grizzly bears, facilitated by maintenance of compatible habitat conditions and population criteria. The DMA encompasses more than 16,000 square miles (or 42,000 square kilometers).

Managers from federal and state agencies and the tribes have developed a draft Conservation Strategy for the Grizzly Bear in the Northern Continental Divide Ecosystem (Conservation Strategy) which is intended to guide management of grizzly bears once they are delisted. All are expected to sign the Conservation Strategy, thereby agreeing to use their respective authorities to maintain and enhance the recovered status of the grizzly bear in the NCDE after delisting by implementing respective regulatory mechanisms, interagency cooperation, population and habitat management and monitoring, and other provisions.

To delist a species or distinct population segment of a species from the Endangered Species Act, there must be adequate regulatory mechanisms in place to ensure that it will not once again become threatened or endangered. The commission is proposing to adopt the demographic objectives of the NCDE Conservation Strategy into administrative rule to demonstrate Montana's commitment to maintaining a recovered grizzly bear population in the NCDE, as well as strengthen the regulatory mechanisms associated with population management.

4. The commission proposes to transfer the following rule:

<u>OLD</u>	<u>NEW</u>	
ARM 12.9.103	ARM 12.9.1401	GRIZZLY BEAR POLICY

AUTH: 87-1-301, MCA
IMP: 87-1-201, 87-1-301, MCA

REASON: The commission is proposing to transfer ARM 12.9.103 for organizational purposes so that it will be in the same subchapter as New Rule I. If the commission does not adopt New Rule I, then ARM 12.9.103 will not be transferred and will remain the same.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearings. Written data, views, or arguments may also be submitted to: Grizzly Bear ARM – Wildlife Division, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail FWPGRIZZLYBEARARM@mt.gov, and must be received no later than October 26, 2018.

6. Kaedy Gangstad or another person appointed by the department has been designated to preside over and conduct these hearings.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the commission has determined that the adoption and transfer of the above-referenced rules will not significantly and directly impact small businesses.

/s/ William Schenk
William Schenk
Rule Reviewer

/s/ Dan Vermillion
Dan Vermillion
Chair
Fish and Wildlife Commission

Certified to the Secretary of State August 14, 2018.

