ANALYSIS

SPECIAL MEETING OF THE MONTANA FISH & WILDLIFE COMMISSION

September 24, 2026

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Executive Summary

The Montana Fish & Wildlife Commission (Commission) held a special meeting to address two petitions for rulemaking under the Montana Administrative Procedures Act (MAPA)[1], a proposed Predator Management Policy and a presentation titled Adjusting License & Permit Numbers (trends for hunting tags and statistics).

This report does not debate the merits of the various positions on these issues. It is an analysis of the process and procedures used by the Commission and whether they are unfair and unbiased. It also notes mis-statements of fact and provides a factual response with sources.

The process and procedures leading up to the meeting and at the meeting itself were beset with problems and departures from established procedure. It was apparent that some Commissioners had not read the Petitions. Pre-decisional bias was apparent in the willingness to vote before public comment had taken place. The makeup of the Commission, which is skewed towards outfitting and ranching interests, appears to be a source of pre-decisional bias.

There were decisive majorities opposed to the two Petitions and the proposed predator policy.[2] Many commenters on the two Petitions viewed it as a vote and their comments were restricted to a simple yes or no. A majority of these were from opponents.

Less than 25% of comments supported the proposed predator management policy and approximately 1/3 of written comments on the predator policy expressed no specific position, pro or con. Many cited the vagueness of the proposal and many others expressed either opposition to trapping and hunting of predators or that there should be increased targeting of predators. The difference in results on the proposed predator policy and the two Petitions can be attributed to the lack of prior notification, scant information provided to the public and the lack of specificity for the proposed predator management policy.

[1] Montana Administrative Procedures Act, Title 2, Chapter 4, Montana Code Annotated.
[2] Comment results posted on the Montana Fish & Wildlife Commission website: https://fwp.mt.gov/aboutfwp/commission/september-2026-special-meeting.

When considering the two proposed actions that would limit and prevent the deaths of predators and carnivores, the Commission expressed less interest and limited comment. When considering the proposal to increase lethal action against predators, there was far more interest and comment. This is an example of a general bias of the Commission against predators which has been exemplified in actions taken by the Commission on wolves, mountain lions and bears, against the recommendations of biologists and wildlife experts.[3]

This report details procedural errors, pre-decisional bias and an accounting of written, uploaded and oral comments.

Process Issues

Scheduling

The Commission Chair stated the Commission was under strict time requirements for response to the Petitions under MAPA and this was the reason for the special meeting. The perceived time crunch was the result of the Commission's delay in scheduling the meeting and announcing a public comment period.

The two Petitions under consideration were received by the Commission on July 27th,[4] 2026 and August 5th[5], 2026, respectively. The Commission could and should have scheduled a meeting immediately upon receiving the Petitions. Instead, it waited until the second week of September, resulting in not enough time to properly notice the public and hold open an adequate comment period for which to solicit written comment from the public.

Confirmation of Receipt

The Commission did not provide acknowledgement of receipt of the 24-Hour Trap Check Petition by sending a stamped copy to the Petitioners. The Commission staff initially denied having received the Petition and only later did it admit to having received it on July 27, 2026.[6]

Comment Period

The written comment period was just seven days total and only five business days. It was announced at end of business on Friday afternoon, September 11th, 2026 and closed at 5pm on September 18th, 2026.[7] Most of the public was not aware of this announcement until Monday the 14th at the earliest. There were no concurrent notices posted by the media.

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[3] Commission decisions to increase mountain lion quotas, allow hunting of black bears with hounds, exceed recommended quotas on female black bears and exceed recommended statewide quota on wolves.
[4] Petition from Footloose Montana and Gallatin Wildlife Association.
[5] Petition from Flathead-Lolo-Bitterroot Citizen Task Force, seventeen other Montana organizations and 49 individuals.
[6] Personal communication with Anja Heister.
[7] Ibid 2.

By contrast, the wolf hunting and trapping regulations had a 26-day comment period, from July 17, 2026 through August 12, 2026.[8]

The registration link to speak at the meeting was not functional for several days. Footloose Montana notified the Commission on September 20, 2026 and the link was not functional until September 21, 2026.

The Cover and Information Sheet for each agenda item noted the wrong date of receipt—September 24th, 2026—the day of the Commission meeting. Only after being notified by Footloose Montana[9] was the date corrected.

The Commission used AI to categorize public comments and some comments appear to be missing. Several comments both pro and con were improperly flagged as "gibberish" or "poor quality."

No public comment was taken on the licensing presentation and the public was not allowed to ask questions but Commissioners were allowed to comment and ask questions.[10] The Powerpoint program was not provided on the Commission website prior to the meeting.

Given the broad and intense public interest in this issue, particularly the number of non-resident licenses issued, and the question about jurisdiction between the Commission and the Director and whether the Director may have abused her discretion regarding landowner sponsored tags, failure to allow public comment was a poor decision.

Inaccurate and Missing Information

For several days, the Commission published inaccurate information on its website stating that one of the petitioning organizations for the 24-Trap Check Requirement was Trap Free Montana[11], which was not a Petitioner. The correct name of the Petitioner is Footloose Montana and Gallatin Wildlife Association. Only after being notified by Footloose Montana did the Commission make the correction by crossing out the wrong name.

The Commission also used the wrong word regarding the Bear Spray Petition saying it requested that bear spray be "reasonably accessible"[12] while the Petition states in several different parts of the Petition that bear spray should be "readily accessible," which has a different meaning.

The Predator Management Policy sponsored by Commissioner Wargo initially had no details available to the public. Only on the morning of September 17, 2026 was information provided on the Commission website, just one day before the written public comment period ended. This is insufficient public notice under the MAPA[13].

[8] Commission website.
[9] Ibid 5.
[10] Statement from Chair Lesley Robinson at 18:37 of the video on the Commission website.
[11] Ibid 2.
[12] Ibid 8.
[13] MAPA 2-4-302

The Commission Chair repeatedly confused the two Petitions and Petition representatives.

Petitioner Presentations

For the meeting itself, Petitioners received no advance notice whatsoever from the Commission or Commission staff that they would be allowed to make a verbal 10-minute presentation of their petition before the Commission. This allowed no time for preparation.

In response to an email inquiry, Commission liaison Jesse May told Petitioner on the 24-hour Trap Check Petition the maximum time allotted to each commenter was 2 minutes.[14]

The Chair stated that the presentations by Petitioners would not be counted towards the 2-minute statement pre-registered for. Despite this, she failed to call on petitioner Mike Bader for his pre-registered 2-minute comment, depriving him of this opportunity to speak for himself.

Improper Procedure

Commission Chair Lesley Robinson called for a vote on the 24-Hour Trap Check Petition before public comment was taken. She was informed by the Montana Department of Fish, Wildlife & Parks and Commission attorney Jeff Hindoein this was not proper procedure.

The Predator Policy sponsored by Commissioner Wargo and the Hunter Statistics Presentation were not petitioned items and the Commission did not meet public notice requirements associated with the proposed Predator Policy. These two agenda items should have been scheduled as part of the general Commission meeting on October 14th, 2026. There was short notice to the public and the written public comment period was improperly limited to five business days. This represents poor decision-making by the Commission. No member of the public was provided an opportunity to present an opposing viewpoint and facts.

NOTE: The Commission repeated this improper procedure for its October, 14th, 2026 meeting by adding two amendments to fishing regulations without prior public notice, the day of the meeting.[15] Despite repeated complaints from the public, the Commission continues to short cut the public comment and MAPA notice requirements.[16]

Presentation on Hunter and License Statistics

This presentation focused on deer and elk and was led by Emily Cooper, Licensing Chief with Montana Department of Fish, Wildlife & Parks and assisted by other FWP staff.

The presentation revealed a significant decline of 20% in resident hunters, an emphasis on selling non-resident tags and a possible misappropriation of restricted tags into the general category of unrestricted tags.

[14] Email, September 17, 2026 from Jesse May to Anja Heister.
[15] Montana FWPs Daily Digest email, sent at 6:54 AM, October 14th, 2026.
[16] Ibid 13.

At 31:25, it was revealed that in 2025, 76% of all hunting revenue from license sales came from non-residents. **At 31:57**, it was revealed that license sales from 2016-2025 increased by 22,866 for residents and increased by 86,264 for non-residents. **At 33:19**, it was revealed that non-resident Elk B licenses have more than doubled since 2016.

At 34:30, it was revealed that 36% of non-residents had tags for both deer and elk with 21% having only elk licenses compared to 15% for residents.

At 35:48, it was revealed that since 2015 there has been a decrease of 12,117 resident deer hunters and an increase of 1,107 non-resident deer hunters. Resident elk hunters decreased by 4,381, while non-resident elk hunters increased by 1,679.

At 41:30, future trends prediction is a continuing decline in resident hunters.

NOTE: A discussion took place as to whether it is appropriate to take unclaimed restricted licenses from the restricted category and place them into an unrestricted category in which anybody can buy them.

At 44:18, **Chair Robinson** said, "I did not realize that the landowner sponsored tags, that anything unclaimed went into that pot which, I mean its over half of them that were unclaimed. And so instead of the 4,600, you end up with 8,226 total which is not quite double but it's getting close to double what was intended. And another thing too, can you, I don't know who can speak to this, but I found out this year that the surplus tags, we as a Commission have no authority over that, but that is the authority of the Director. Do you want to hit on that a little bit? How you decided that the surplus tags should be released because its not an (unclear).

At 45:16, **Emily Cooper** replied, "So, we actually had legal do a review on those unclaimed landowner to make sure we were executing it correctly and statute actually does outline that we can take those licenses that were unclaimed and add them into the general license pool. So, we did look into that and we're above board on that. And then, as far as the surplus licenses go, that's an administrative rule that just says that any licenses left over after the drawing are distributed at the direction of our director."

At 47:28, **Commissioner Burrows** said, "Well done on the presentation. I think we could have a special meeting just to talk about this Powerpoint presentation that you gave us."

RESPONSE: The Commission should have had a separate meeting on this subject and not combined it with the Petitions at a special meeting.

At 47:53, **Commissioner Burrows** said, "The landowner sponsored tags. When I read on the website just now, it looks like the intent of those or what it says was Montana landowners can sponsor non-resident deer hunters to hunt their deeded land. I don't see the nexus to take a landowner sponsored tag that was intended for them to hunt landowner sponsored deeded land and then drop them into a pool where we now have block management and public land impacts

from non-residents. I think if I had known that, we hopefully could have had some more discussion about dropping those and maybe it's a director decision, but I really hope that decision is considered seeing those impacts and hearing the fact that non-residents are hunting the eastern part of the state more and harvesting more mule deer. So, I hope we take a look at those orphan landowner sponsored tags and not shift that impact to public lands where the intent looked to be hunting landowner sponsored deeded land."

At 55:00, **Chair Robinson** said, "I just have a follow up to the landowner sponsored tags. Could you check between or whenever you can to see if that is under our jurisdiction, the ones that were released because I am completely in agreement with Commissioner Burrows that it's not really the same intention for those tags and so I know I spent a lot of time with through staff trying to figure out this deer tag stuff last year and what our jurisdiction was and what it wasn't and I don't remember having this conversation at all. So, if you could just get that information to us to see if it's even in our jurisdiction or if you even know."

Mis-statements of Fact and Process Issues

There were numerous misstatements of fact and inaccurate statements made by members of the Commission and those making comments during consideration of the two Petitions and the proposed Predator Management Policy. There were also process issues that are examined.

The Commission Chair and the Department and Commission attorney have the obligation to correct false statements made at hearings. Leaving these unchallenged allows false statements to remain in the record without challenge to their factual accuracy. These are taken in order by the time stamp on the video posted on the Commission website.

24-Hour Trap Check Petition

At 1:00:12, **Attorney Jeff Hindoein** said, "From a process standpoint with respect to the trap check petition you indicated as we indicated in the proposal and information sheet that the Commission this is the authority to establish a trap check requirement is an authority the Commission has, it has already exercised that authority through the adoption of a pair of species-specific trap check requirements in its annual furbearer regulation set process. There really has not, at least based on what we could see been any attempt or utilization of the MAPA process for adopting this type of regulation for a long time.

And then, the only final comment about the PNI sheet indicated in there, even though the proposed rule language, as submitted by the Petitioners would include penalty provision language that wouldn't be something that would get advanced into the rule making process. The legislature has typically set the penalties for the violation of both the standards it has established in Title 87 for trapping rules and the standards for violating your rules as a Commission whether they're adopted through the MAPA process or whether they'd be adopted through a biennial reg set process."

At 1:02:57, **Chair Robinson** said, "Are there any questions on the process or any questions on this Petition before I open it up for a motion?" There were no questions.

At 1:03:02, **Chair Robinson** said, "I would entertain a motion if someone would like to make a motion on that 24-hour trap check. We will do these separately."

At 1:03:31, **Commissioner Burrows** said, "Madam Chair, I would move to deny the 24-hour trap check petition."

At 1:03:46, **Commissioner Lane** seconded the motion.

RESPONSE: The Commissioners made a motion and seconded the motion before hearing from the public. This represents pre-decisional bias and a lack of interest in what the public had to say.

At 1:03:52, **Chair Robinson** said, "Okay. Any questions, comments before I go out to public comment?" There were no questions.

At 1:04:10, **Chair Robinson** said, "Oh, wait a minute. We should have the presenters before I accepted a motion. We should have had a presentation."

RESPONSE: This is additional evidence of improper procedure. Once again, the Commission was rushing to their pre-determined decision before hearing the evidence in support of the Petition.

Commissioner Burrows withdrew his motion and Commissioner Lane withdrew his second.

At 1:05:02, **Chair Robinson** said, "Okay, All right. Who do we have lined up to present for this?"

NOTE: Nobody was "lined up." Petitioners were given no advance notice they would have this opportunity. There was silence since this was a surprise.

Attorney Jeff Hindoein named the sponsors.

At 1:05:12, **Chair Robinson** said, "Who was the sponsor?" "Is there anyone from Footloose who would like to speak to this? And this is not your two minutes. This is, this is time just to speak to the Petition that you have presented to the Commission."

NOTE: Later in the meeting, the Chair did not call on Bear Spray Petitioner Mike Bader for his two minutes that he pre-registered for, thus depriving him of his opportunity to speak for himself.

After a delay, Chair Robinson finally called on Anja Heister with Footloose Montana to speak.

At 1:05:59, **Anja Heister** said, "I expected to only have up to two minutes to talk so I tailored my testimony up to two minutes." Dr. Heister's testimony was given.

At 1:09:40, **Clinton Nagel** with Gallatin Wildlife Association gave his testimony.

At 1:10:05, **Clinton Nagel** said, "Like Anja, I was expecting a minute and a half at the most to talk."

There were no questions from the Commission for either Dr. Heister or Mr. Nagel indicating a lack of interest in what Petitioners were presenting and pre-decisional bias.

At 1:13:54, **Commissioner Burrows** said, "Madam Chair, I would make my motion. I would move to deny the 24-hour trap check petition."

At 1:13:53, **Commissioner Lane** seconded.

At 1:15:35, **Mr. Chris Morgan** with the Montana Trappers Association said, "I want to say, you know, trappers have given quite a bit over the last decade. We're one of the most regulated activities that the Commission oversees. So, on this particular topic, like I said I won't go into detail about it, but a 24-hour trap check in the State of Montana has nothing really to do with the animal suffering. It has more to with the fact that we lack the biodiversity that other states have 24-hour trap checks go into. So, realistically speaking I'd be more than happy to sit down with the Petitioners on this and have a good chat about it at some time if that worked, but for the current time being I would ask that you guys deny this Petition."

RESPONSE: Trapping is not one of the most regulated activities. Montana has no general trap check requirements and does not ban many types of traps. There are no limits on cubby set openings as there are in British Columbia.[17] Suffering of trapped animals has been extensively documented.[18, 19, 20]

Montana does not lack biodiversity compared to other states. It has been extensively documented that Montana has a high diversity of native species compared to most states. [21,22]

At 1:20:28, **Mr. Will Israel**, executive director of the Montana Outfitters and Guides Association said, "First, it (the petition) presents no Montana specific data demonstrating the current trap check intervals are causing measurable harm. Thirdly, we've heard no reason several times, and so I would ask that the petitioners and other supporters to pay close attention to this. A blanket 24-hour check is physically impossible for trappers working in remote wilderness or roadless terrain. Access is governed by weather, weather, and geography, not scheduling preference. A requirement that cannot be met in a storm is not a regulation, it is a prohibition."

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[17] Montana Furbearer Regulations.

[18] Footloose Montana and Gallatin Wildlife Association Petition for Rulemaking.

[19] Declaration of Carter Niemeyer, Expert Disclosure of Carter Niemeyer, Deposition of Carter Niemeyer, 2023, 2024, *Flathead-Lolo-Bitterroot Citizen Task Force, et al. v. State of Montana CV 23-101-M-DWM*

[20] Proulx G. 2015. Killing Neck Snared Are Inhumane and Non-Selective, and Should Be Banned. Animals 2025, 15, 2220.

[21] Hansen, A. J., et al. (2024). "Integrating Ecological Value and Charismatic Species Habitats to Prioritize Habitats for Conservation: A Case Study from Greater Yellowstone." *Natural Areas Journal*, 44(3), 157–171.

[22] Foresman, K. R. (2012) (2nd ed.). Mammals of Montana; Montana Press Publishing Company, Missoula, MT.

RESPONSE: The Petition contains Montana specific data on by-catch of non-target species including grizzly bears, elk, moose, deer, mountain lion and many other species.[23] The loss of these species is harm. A 24-hour trap check is not impossible. It is recommended by the Association of Fish & Wildlife Agencies, who state that weather conditions are no excuse for failing to check traps every 24 hours.[24] Trappers are encouraged to limit their traplines to those which can be checked every 24 hours.

Carter Niemeyer, a lifelong trapper and former employee of Wildlife Service's Animal Damage Control stated, "A 24-hour trap check should be a requirement in every state, not 48 hours, not 72 hours, not a week."[25]

At 1:23:21, Mr. Jeff Darrah, executive director of Montana Sportsmen for Fish & Wildlife said, "The petition's stringent conditions create an impossible compliance burden for trappers and an unfeasible enforcement mandate for the department.

RESPONSE: A 24-hour trap check is not impossible. Thirty-six states have a 24-hour requirement. [26] It is also not true that such a requirement would be unenforceable. Again, 36 states enforce this requirement. Montana Fish, Wildlife & Parks has enforced a 48-hour trap check in parts of Montana.[27]

At 1:50:08, Mr. Larry Rattray said, "I would like to say that, you know, they're quite concerned about the welfare of animals and the distress and quite often when we go to check a trap and whatnot, the animal is asleep. They are not in distress. They are not fighting this thing for 24 hours or whatever. And so, I think they maybe you know just a little too much Disney Channel and hopefully you know they can realize that these animals are not suffering unnecessarily and we need to have a longer period of time to check traps in order to not to destroy the trap line to whether or not we can actually do it and we do need to manage these animals. Some of them need to be removed."

RESPONSE: Trapped animals are not simply asleep. They may be extremely exhausted from struggling to free themselves and from trauma.[28] Trapped animals are in extreme distress and may fight for days.[29] There is no evidence whatsoever that required trap checks destroy trap lines. To the contrary, trap lines may be disturbed by neglect and failure to perform regular checks.

At 2:04:22, Mr. Don Wilkins said, "Mandating a 24-hour trap check is only going to accomplish two things. It's going to put human scent on the trap line every day which will hinder

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[23] Ibid 3.

[24] Association of Fish & Wildlife Agencies. 2022. Trapper Education Manual. 146p.

[25] Deposition of Carter Niemeyer, March 6, 2024. *Flathead-Lolo-Bitterroot Citizen Task Force, et al. v. State of Montana CV 23-101-M-DWM.*

[26] https://wyominguntrapped.org/news/push-for-24-hour-trap-check/

[27] Ibid 12.

[28] Ibid 14.

[29] Beasoleil, Baker, Sharp. 2022. Scientific Assessment of the Welfare of Trapped Animals-Key Considerations for the Use of Sharp and Saunders Humaneness Assessment Model, Animals 12(3).

success rates for the target species, which may be the overall agenda of the proponents of this petition. With the price of fuel, it is not going to be cost-effective for trappers to go out and check their traps every day, which would also drop success rates, which may also be part of the agenda of the proponents of this petition. Most of the trappers that I know have a real job where they work 40 hours a week and it would be very hard for these trappers to work every day and then go out and check trap lines in the dark."

RESPONSE: There is no evidence that human scent on trap lines deters success. For furbearers, wolves and bears, who have a strong sense of smell, detectable human scent would remain for several days at least. Moreover, trappers use bait (dead meat from animals) and powerful scents that attract furbearers, wolves and bears from long distances.[30] Fuel costs have never been a consideration when the Commission sets trapping rules and regulations.[31] Trappers who have full-time jobs are not subsistence trappers. They do it as a hobby. Convenience is not a consideration for opposing daily trap checks, according to the Association of State Fish & Wildlife Agencies.[32]

At 2:09:12, Commissioner Burrows said, "We heard that first it's an impossibility. So, putting that on law enforcement to make some sort of enforcement decision on somebody who couldn't physically check their trap lines and putting that back on the trappers, an impossibility. The discussions about the non-target species, not necessarily the bears and wildlife, but going back to the pets, why isn't there a petition to propose a leash law on public lands that if we're specifically worried about pets? I would make the assumption that if we've got a non-target pet in a trap that came from a dog being at large, especially if it's in that trap for a long period of time, that dog was out there running wild on public lands, probably harassing wildlife in some case or at least chasing them out of there, then got in that trap. So, one way that I guess the petitioners could avoid or maybe a petition to avoid those, pets at least being in the non-target animals or pets being in traps we could propose a leash law and a penalty for having dogs at large on public lands. Another reason why I didn't feel like time is right in the Petition itself, the rationale was that it was going to reduce incidents and frequencies of non-target. I don't think that's true either. It may reduce the time spent in the trap, but I don't it accomplished one of the two main goals of the petition."

RESPONSE: A 24-hour trap check is not impossible. Thirty-six states have either a 24-hour or daily trap check requirement. Montana has a species-specific 48-hour trap check requirement in certain areas of Montana including remote lynx protection zones.[33] There is no evidence presented that law enforcement has been incapable of enforcing this rule. That has not been impossible.

The vast majority of public lands in Montana are managed by the U.S. Forest Service and Bureau of Land Management. Those agencies are responsible for any rules pertaining to pets. The Commission has no jurisdiction in this regard and any petition to the Commission to require a

[30] Expert testimony of Dr. Katherine Kendall, 2024, *Flathead-Lolo-Bitterroot Citizen Task Force, et al. v. State of Montana CV 23-101-M-DWM.*
[31] Ibid 12.
[32] Ibid 19.
[33] Ibid 12.

leash law on public lands would be rejected. The Petitioners have no obligation to submit such a petition.

Science has shown that the longer a trap line is not checked, the higher the chance that non-target species will be captured.[34] The goals of the Petition cannot be realized unless the Petition is advanced and a rule implemented.

At 2:11:07, Commissioner Lane said, "I kind of have to agree for the same reasons as Commissioner Burrows. One of my biggest things, and I think this comment was made, was that here in Region 7, we're big country here, traveling in between trap checks, it's not going to be feasible and enforceable. How are you going to know if that person's been out there and checked it in the last 24 hours without someone actually reporting it or a game warden actually trying to enforce it, which we already don't have enough game wardens as it is. So, to task them with even more with what we already have is asking a little bit too much. But, if you were to say, then let's bring it in closer that within a 24-hour check period then, the comment was made it's going to bring more trappers closer to urban areas which is just going to cause more conflict."

RESPONSE: This comment does not account for personal ethics and responsibilities of trappers to obey all regulations and use practices recommended by numerous professional organizations.[35] Just because there is nobody there to see a violation being committed in no way excuses the violator. The honor system is a big part of enforcement. Just because highway patrol can't catch all speeders does not mean we get rid of speed limits.

There is no evidence presented that a 24-hour trap check requirement would bring trappers closer to urban areas. Trappers go where they think they will have success. Trapping closer to urban areas would increase conflict and likely lead to further restrictions to avoid conflict with other users. Personal ethics and responsibility are required of every trapper.[36]

At 2:12:23 Chair Robinson said, "I just quickly want to talk about, I think we talked a little bit about it Jeff, that we only have a certain number of days. So, when these petitions come in this special meeting is for a purpose because we have to respond within a certain number of days when those petitions show up. So, it's not that we're giving anybody special treatment or whatever. It's we're following our due diligence on what we need to do. Correct? Okay."

RESPONSE: A special meeting was held to comply with the response requirements of the Montana Administrative Procedures Act.[37] The Petitions were received by the Commission on July 27th and August 5th, 2026, respectively. The Commission could have scheduled the discussion and votes on the Petitions immediately and had it on the schedule of the August 19, 2026 Commission meeting. It chose to wait until September 11, 2026 to schedule the meeting since the October 16th, 2026 meeting would have been after the date at which MAPA requires a

[34] Proulx, G. and Dwight Rodka. (2019). "Killing Traps and Snares in North America: The Need for Stricter Checking Time Periods." *Animals* 9(9):570.
[35] Ibid 19.
[36] Ibid 19.
[37] Ibid 1.

response. The special meeting was because the Commission did not act in a reasonable time frame.

At 2:13:02, Chair Robinson called the vote. It was approved unanimously.

At 2:13:52, Attorney Jeff Hindoein explained the Bear Spray Requirement Petition. He incorrectly said the Petition required bear spray to be "reasonably accessible" while the petition actually states "readily accessible" which has a different meaning. He said it appears the Commission does have the authority to adopt and implement the proposed rule but that the penalty provisions are within the authority of the Legislature.

At 2:19:13, Chair Robinson said, "I'm going to let the Petitioner give us just a little overview before I ask for any questions from the Commission for a motion. So Anja, would you like to go ahead and usually this is a 10-minute time so I will set that and then you guys can decide who you want to do it."

At 2:19:40 Attorney Hindoein said, "Madam Chair, the Petitioner in this case is Flathead Lolo, the Citizen Task Force."

At 2:19:44 Chair Robinson said, "Okay. So, would that be?"

At 2:19:46 Attorney Hindoein said, "Several other NGOs. Is it Miss Ames?"

At 2:19:50, Chair Robinson said, "Yeah, I've got Patty Ames. Okay, is Patty Ames on? (several seconds of silence). Not seeing anybody. Is there any other names? I don't have any names of who the individuals I guess for the Petitioners. **Hindoein**: "Mr. Nagel is a co-petitioner on this one or one of the members of the organizations." **Robinson**: "Clint Nagel." "Is there no one from Flathead Lolo Bitterroot Citizens Task Force on? If you are, raise your hand." **At 2:21:08, Mike Bader** began speaking. Clint Nagel spoke after his presentation.

RESPONSE: The Chair had the two Petitions confused and was looking at the previous petition rather than the one under consideration at this time. There was no advance notice that the Flathead-Lolo-Bitterroot Citizen Task Force and co-petitioners would be allowed to make a presentation. Mike Bader had his hand raised in the Zoom platform for several minutes but the Chair was apparently not looking.

At 2:29:13, Commissioner Walsh said, "There were pretty strong assertions there that without bear spray this bear spray requirement we would save the lives of humans and grizzly bears and I just want to hear from the FWP staff if that is accurate. Were there any documented cases of grizzly bear mortality that would have been prevented by the individual encountering the bear having bear spray?"

At 2:29:45, FWPs Director Christy Clark said "There's none that have been documented."

At 2:29:50 Commissioner Walsh said, "I know there are cases, that recent cases of grizzly bear attack on hunters, but all those hunters had bear spray."

RESPONSE: This is questionable. FWPs bear specialist Mike Madel publicly stated that four grizzly bear mortalities near Choteau was an outcome that may well have been preventable stating, "Bear spray could have turned this an entirely different way."[38] Likewise, three grizzly bear mortalities near Seeley Lake occurred when hunters sought to retrieve a mule deer carcass several hours after it had been shot. The hunters left their bear spray in their vehicle according to FWPs spokeswoman Vivaca Crowser.[39] Ms. Clark's answer was incomplete at best and did not reference instances when a bear mortality was prevented by the deployment of bear spray. There have been documented instances of hunters saying bear spray saved their lives.[40] This evidence was presented as part of the Petition.

It is not true that all hunters approached or attacked by grizzly bears had bear spray.[41]

At 2:30:04, FWPs staff Quentin Kujala said, "On this side, this is just quite hearing the question and we can wonder what might otherwise have happened but that's I think in this room as close as we can come thinking about instances where bear spray have been deployed over the previous seasons and has been successful at ending a conflict but what to think what might have happened otherwise you know and when a firearm is in place if that's if we hear the question that way vice chair that's we haven't other than speculation we might do here in the moment we haven't put an analysis together of the sort that I understand you're asking for vice chair."

RESPONSE: The reason that FWPs does not have this information is that they don't seek it. Seldom, if ever, does a FWP press statement regarding a bear-human conflict state if the human had bear spray or if it was deployed. Dr. Chris Servheen and 30 other biologists including former FWPs employees, have requested that FWPs perform a forensic investigation by a board of inquiry for each incident of a bear-human conflict resulting in a defense-of-life killing of a grizzly bear, including whether bear spray was available and if it was deployed.[42] FWPs still does not convene boards of inquiry or release the results of a formal investigation. In fact, later in the meeting at **2:51:15, Mr. Mike Mershon**, representing the Montana Wildlife Federation, called for such inquiries saying, "One final point that I really want to highlight that was made from a Commissioner. It would be very useful for a department-led effort for a deeper analysis of bear encounters and a public presentation of that information in a way that could inform future education opportunities for best practices. A great example of this type of analysis just for our collective reference would be the literature produced by the American Alpine Club Accidents and North American Mountaineering."

At 2:31:41, Commissioner Walsh made a motion to deny the petition. It was seconded by Commissioner Lane.

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[38] https://choteauacantha.com/new/article d220fe14-6238-5363-9100-c9498fdb54e2.html
[39] https://missoulacurrent.com/hunters-grizzly-bears/
[40] Ibid 4.
[41] Ibid 4.
[42] C. Servheen and 30 other biologists, Reducing Defense-of-Life Grizzly Deaths. Mountain Journal, November 24, 2025.

At 2:32:09, Commissioner Lane stated: "The previous comment by the commenter that these federal agencies I think the key point is they're recommending it as is the Montana FWP. They're not one of those is requiring it. And I think that should be left up to the choice of the individual you know, and yes, hopefully they will make the right decision to try and deter the use of killing the animal. But I've never seen where the government stepping in and requiring anybody to do has ever turned out really well."

RESPONSE: Hope is not a strategy. This is also an unsubstantiated anti-government opinion that is not factual. Government has required seat belts, speed limits, personal flotation devices, hunter orange and a multitude of other things which have turned out quite well.

At 2:35:52, Mr. Chris Morgan, speaking on behalf of the Montana Trappers Association said, "Commissioner Walsh, I'd like to say thank you for your question to the department. That was something that was weighing heavily on my mind is when has there ever been a mortality of a grizzly bear associated with trapping that bear spray could have stopped that mortality from happening? Did a lot of digging into that and I can't find a single instance where that would have been the case. I'd also like to point out and I'm not trying to make a personal attack here, but one of the presenters is saying it's just common sense to carry bear spray in the backcountry. I saw photos of said individual in bear country presumably with a dog and didn't see bear spray readily available on that person. So, it really makes me question the authenticity of this Petition and what it's actually trying to come up with and trying to solve because if they don't believe in it, why should they believe in it for us?"

RESPONSE: Again, since Montana FWPs does not do forensic investigations of bear-human conflicts resulting in defense-of-life kills and does not reveal whether or not bear spray was available or was deployed, the information is missing. Not all grizzly bear mortalities associated with trappers are reported.[43]

Carter Niemeyer, a life-long trapper and expert on the subject and a former employee of Wildlife Services stated, "Based on my conversations with various members of the trapping community, many trappers will not report incidental captures out of fear that these reports will result in increased regulation of trapping activities. To illustrate this point, neither of the 2020 grizzly bear snaring incidents in north Idaho were reported by the trapper who set the snares but were instead reported by a mushroom picker and a hunter, respectively."[44] I believe that many incidental captures go unreported and that many more grizzly bears are captured in Montana than are reported to Montana Fish, Wildlife & Parks.[45]

The comment from Mr. Morgan also indicates that he searched Petitioners' social media pages looking for so-called "evidence," making assumptions that are out of context from photos not

[43] Expert testimony of Dr. David Mattson, 2024, *Flathead-Lolo-Bitterroot Citizen Task Force, et al. v. State of Montana CV 23-101-M-DWM.*

[44] Declaration of Carter Niemeyer, 2023, *Flathead-Lolo-Bitterroot Citizen Task Force, et al. v. State of Montana CV 23-101-M-DWM.*

[45] Expert testimony of Carter Niemeyer, 2024, *Flathead-Lolo-Bitterroot Citizen Task Force, et al. v. State of Montana CV 23-101-M-DWM.*

taken in grizzly bear habitat. It is an unsubstantiated claim that Petitioners do not carry bear spray within grizzly bear habitat and do not believe in it. This is simply an unwarranted attack on the character of the Petitioners.

At 2:37:28, Mr. Jeff Darrah speaking on behalf of the Montana Sportsmen for Fish & Wildlife said, "Matter of fact in California carrying bear spray in every national park in California is prohibited. The petition is selective in its application targeting hunters and trappers while completely ignoring other public land users such as hikers, fishermen, wildlife watchers, bikers, campers, berry pickers. This year a hiker was killed in Glacier Park, lost his life in an encounter with a grizzly bear. The official report states that a canister of bear spray was found at the scene and it had been deployed until empty."

RESPONSE: Bear spray is prohibited in National Parks in California to prevent it from being used by humans on other humans to commit assaults and other crimes. It has nothing to do with its efficacy on bears.

This is inaccurate. Petitioner Mike Bader had previously explicitly stated that hunters and trappers were not being singled out and that all users should carry bear spray but that the Commission only has authority over hunting and trapping regulations. Petitioner Clinton Nagle also stated this in his remarks at 3:14:00.

The official report on the fatality in Glacier National Park also stated the hiker was hiking alone in the dark and off-trail through thick brush and deadfall and likely had stumbled upon the bear triggering a defensive attack.[46]

At 2:44:56, Mr. Don Wilkins said, "Mandating bear spray is probably the most egregious, nonsensical proposal that I've heard. Forcing hunters and trappers and guides and outfitters to have bear spray readily available is just not a good idea. Hunters already have enough stuff to pack around while hunting and adding another mandated hunting gear that doesn't even have to be used is ridiculous. And I hear a lot of talk about grizzly bear habitat and territory. Well, up in Region 1, there's no such thing as grizzly bear habitat. It is all grizzly bear habitat. We set aside thousands of acres for Grizzly Bear Recovery Plan and they're not staying in that recovery plan area. They're moving out into other areas having there's probably four or five game cameras that we've had that aren't even anywhere close to where they're supposed to be."

RESPONSE: This is not true. Bear spray weighs just 312 grams[47] and is not a burden. Many hunters speaking at this meeting said they carry bear spray while hunting.

There are dedicated areas outside Recovery Zones designated as Zone 1 in the NCDE[48], the Demographic Monitoring Area in the NCDE and GYE[49] and Bears Outside Recovery Zones in

[46] Board of Review Report Fatality of Anthony Pollio from a grizzly bear attack in Glacier National Park on May 3, 2026. 17 p.
[47] Ibid 43.
[48] Conservation Strategy for Grizzly Bear in the Northern Continental Divide Ecosystem 2018.
[49] Conservation Strategy for Grizzly Bear in the Greater Yellowstone Ecosystem 2024 update; Ibid 45.

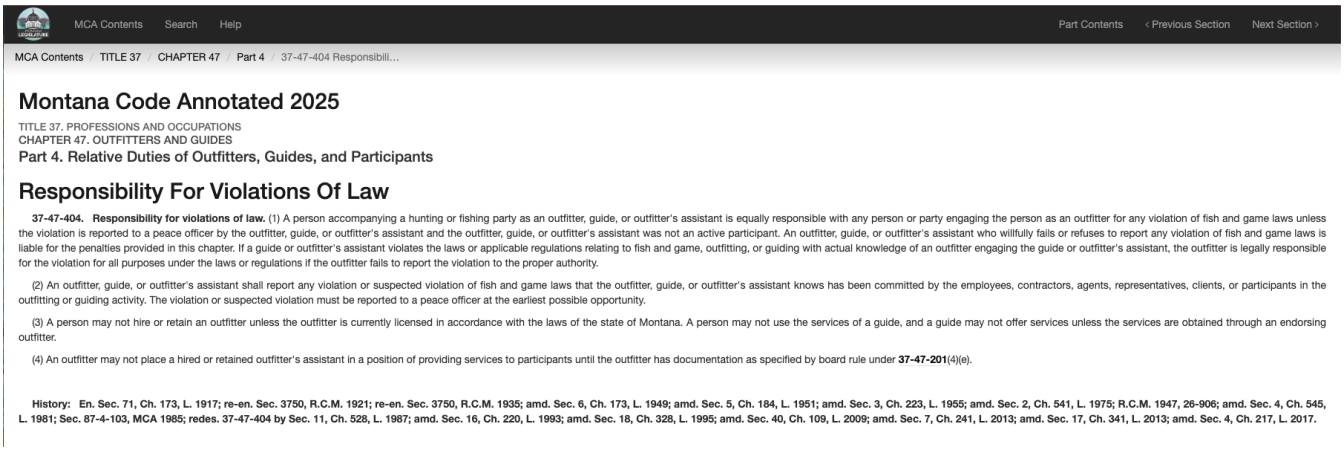
the Cabinet-Yaak, now part of a proposed demographic Monitoring Area[50]. There are also connectivity areas the State of Montana has recognized in its State Management Plan that are between the NCDE and GYE.[51] There is no prohibition on grizzly bears being outside of Recovery Zones and this is in fact, encouraged as part of grizzly bear recovery. Several large private land owners in Region 1 have dedicated conservation easements and habitat plans approved by the State of Montana that specifically state one of the purposes is to provide habitat and connectivity for grizzly bears.[52]

At 2:47:05, Mr. Will Israel, speaking on behalf of the Montana Outfitters and Guides Association stated, "We find it particularly offensive to our 100 plus year old Montana industry that outfitters and guides are singled out in this Petition where the proposed penalty language holds licensed outfitters and guides responsible for the client behavior in the field and threatens license determination based on conduct they cannot reasonably control. That is vicarious liability without precedent in Montana's labor and industry framework and it raises serious due process concerns. It was arrogant and offensive for the Petitioners to create that specific language against a licensed professional and experienced industry in Montana."

RESPONSE: In fact, outfitters and guides are legally responsible for the actions of their clients. The Montana Code Annotated[53] states:

37-47-404. Responsibility for violations of law. (1) An outfitter, guide, or outfitter's assistant who willfully refuses to report any violation of fish and game laws is liable for the penalties provided in this chapter. If a guide or outfitter's assistant violates the laws or applicable regulations relating to fish and game, outfitting, or guiding with actual knowledge of an outfitter engaging the outfitter or guide's assistant, the outfitter is legally responsible for the violation for all purposes under the laws or regulations if the outfitter fails to report the violation to the proper authority.
(2) An outfitter, guide, or outfitter's assistant shall report any violation or suspected violation of fish and game laws that the outfitter, guide, or outfitter's assistant knows has been committed by the employees, contractors, agents, representatives, clients, (underline added) or participants in the outfitting or guiding activity. The violation or suspected violation must be reported to a peace officer at the earliest possible opportunity. Montana Code Annotated 87-6-601 "trapping and snaring offenses" states that a trapper cited for missing check requirements faces financial penalties and possible loss of outfitter and trapping licenses.[54]

[50] Draft Conservation Strategy for the Grizzly Bear in the Selkirk/Cabinet-Yaak. July 2026.
[51] Montana Grizzly Bear Management Plan 2024. Montana Fish, Wildlife & Parks.
[52] Montana Great Outdoors Conservation Easement.
[53] MCA 37-47-704.
[54] MCA, 87-6-601.



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Montana Code Annotated 2025

TITLE 37. PROFESSIONS AND OCCUPATIONS
CHAPTER 47. OUTFITTERS AND GUIDES
Part 4. Relative Duties of Outfitters, Guides, and Participants

Responsibility For Violations Of Law

37-47-404. Responsibility for violations of law. (1) A person accompanying a hunting or fishing party as an outfitter, guide, or outfitter's assistant is equally responsible with any person or party engaging the person as an outfitter for any violation of fish and game laws unless the violation is reported to a peace officer by the outfitter, guide, or outfitter's assistant and the outfitter, guide, or outfitter's assistant was not an active participant. An outfitter, guide, or outfitter's assistant who willfully fails or refuses to report any violation of fish and game laws is liable for the penalties provided in this chapter. If a guide or outfitter's assistant violates the laws or applicable regulations relating to fish and game, outfitting, or guiding with actual knowledge of an outfitter engaging the guide or outfitter's assistant, the outfitter is legally responsible for the violation for all purposes under the laws or regulations if the outfitter fails to report the violation to the proper authority.

(2) An outfitter, guide, or outfitter's assistant shall report any violation or suspected violation of fish and game laws that the outfitter, guide, or outfitter's assistant knows has been committed by the employees, contractors, agents, representatives, clients, or participants in the outfitting or guiding activity. The violation or suspected violation must be reported to a peace officer at the earliest possible opportunity.

(3) A person may not hire or retain an outfitter unless the outfitter is currently licensed in accordance with the laws of the state of Montana. A person may not use the services of a guide, and a guide may not offer services unless the services are obtained through an endorsing outfitter.

(4) An outfitter may not place a hired or retained outfitter's assistant in a position of providing services to participants until the outfitter has documentation as specified by board rule under **37-47-201**(4)(e).

History: En. Sec. 71, Ch. 173, L. 1917; re-en. Sec. 3750, R.C.M. 1921; re-en. Sec. 3750, R.C.M. 1935; amd. Sec. 6, Ch. 173, L. 1949; amd. Sec. 5, Ch. 184, L. 1951; amd. Sec. 3, Ch. 223, L. 1955; amd. Sec. 2, Ch. 541, L. 1975; R.C.M. 1947, 26-906; amd. Sec. 4, Ch. 545, L. 1981; Sec. 87-4-103, MCA 1985; redes. 37-47-404 by Sec. 11, Ch. 528, L. 1987; amd. Sec. 16, Ch. 220, L. 1993; amd. Sec. 18, Ch. 328, L. 1995; amd. Sec. 40, Ch. 109, L. 2009; amd. Sec. 7, Ch. 241, L. 2013; amd. Sec. 17, Ch. 341, L. 2013; amd. Sec. 4, Ch. 217, L. 2017.

The Petitioners proposed an elevated penalty for failure to comply with the proposed rule for outfitters and guides because they are responsible for the safety of their clients and responsible for ensuring their clients comply with all laws and regulations above and beyond an individual hunting and trapping without a guide or outfitter who are solely and personally responsible for their own safety and compliance with laws and regulations.

At 3:16:18, Chair Robinson called the vote. It was approved unanimously.

Proposed Predator Management Policy

At 3:23:40, Attorney Hindoein said, "This last agenda item is a little bit different than, well maybe a lot bit different than certainly the other things we've been doing and I apologize for however this sort of came across on the public sphere about what it is tried to get that addressed in the PNI sheet but really what the intention of this agenda item is at least from the department staff perspective was to have an opportunity for you as a Commission in a meeting to ideally hopefully provide us a little guidance to help you to the extent that's the direction the Commission wants go in the development of a predator management policy for lack of a better term indicated in the PNI sheet and maybe could have been more specific in directing back to conversations at prior commission meetings but several commissioners have made reference to the concept of ungulate districts of concern in prior public meetings when dealing with other specific agenda items like big game, antelope reg set, lion reg set, bear reg sets. And so, as part of that, there's been conversation about maybe coming with a more focused specific policy on predator management in the context of how that rolls into broader wildlife species management. So, its really not just a Commissioner Wargo thing. I put him on the agenda because he's done a really good job of really kind of providing us with some of more specific ideas he has in mind. But all that really being said, and I certainly defer to if Quentin had anything to add from the standpoint of putting this on agenda. I think what we're looking for on the staff side is to have you give us as much guidance collectively as a commission as to yes, this is something we'd be, we would like to pursue further and have it developed in a more refined way so that we could bring it back to you which again would be a very front-end conversation about this is what we're talking about would you like to advance it into a MAPA rulemaking process which again would be a draft if that was what the Commission wanted to do it would take that next step and then can be more public comment opportunity on what that might look like. So, to wrap that all up, it's

just a very, very front-end agenda platform for discussion amongst all of you as Commissioners with hopefully I think and I defer to Mr. Kujala about what we're ideally hoping to get from a staff perspective is to be able to help you advance that if that is what the Commission's inclination is."

At 3:27:20, FWPs staff Quentin Kujala said, "What I would add just given where we are at this first point in process for Jeff's comments you know from my perspective as a scribe listening to this conversation certainly happy to answer any questions from staff but primarily, I'll be focusing on my perspective you know the functionality that the application, the implementation, what you're trying to achieve in the context of an endpoint relative to the season setting venues that Jeff talked about. Certainly, at some point specific language becomes a very big part of this, but going from conversation narrative to policy language that's specific and intent but flexible in application and then further putting on the layer of ARM rule language I would say in vocabulary and formatting. I'm not so much focused on literal language but you'll see me focus in my answers and my questions in my hearing efforts, my listening efforts to understand again the functionality that mission's looking for trusting that can do a good job as staff buying that functionality and putting it in a policy format and an ARM format. Next go round we'd have a good place where all of us could then start a second conversation with that hopefully good focus that we provided."

RESPONSE: These comments illustrate the vague nature of the proposal and poor process in obtaining public comment. It seems obvious that this issue was not ready for public comment and should not have been on the agenda of the special meeting. There was simply nothing specific enough to comment on for or against, as the written comments clearly show. This appears to be a foot-in-the-door strategy approach to the framework and then to add specifics without being in the public sphere.

At 3:29:00 Commissioner Wargo said, "Undoubtedly, I've been a vocal individual on my stance on I think we need maybe a little more broad framework introduced here. I guess still new enough to the commission that was a little unsure on the procedural steps and just found out recently that I would be, or that I was on the agenda to present this. So, you know at the point that I found out, that I put pen to paper and I tried to determine what an ask out of the department would be. I understand that that got sent out to the public a little bit at a late hour, (underline added) but I did want to try to at least get my thoughts on paper, that supplemental document that was posted to the commission website you know that's my attempt at articulating what an ask would be and that's not a collective foregone conclusion. You know that the Commission as a collective has not yet had an opportunity to weigh in on this so I would anticipate comment on that supplemental document. I guess to circle back what would the ask be here? I'm looking for just intentionality. I'm looking for an intentional predator management framework. I don't think predator management should be arbitrary. I don't think it should be uniform. If we have areas where ungulate populations are struggling but habitat could support more animals and predation is likely contributing to an additive mortality I think there would be benefit for a more deliberate framework. I think that would require kind of a coordinated approach across multiple species. Right now its definitely there's a struggle that I've come across where different dates we discuss different species and it's difficult to take a coordinated approach. Conversely though, I think in that framework I'm also opening the door to really do that intentional management to where if

there is indication where that predation is compensatory and isn't additive in nature that maybe there would be a little bit more tolerance on a landscape for some of the large carnivores. The goal isn't simply fewer predators it's just that healthy sustainable predator prey ratio tied to measurable biological objectives. I went into more detail in that supplemental document, but happy to answer questions or turn it over for broader discussion."

RESPONSE: This issue was sent to the public at a very late hour and even then, it took several days for the Commission to post any supporting information on the Commission website. Commissioner Wargo has sponsored several last-minute agenda items in the past that have left little time for public notice or comment. He apparently has not learned from this.

Based on Commissioner Wargo's previous comments at Commission meetings, including "why do we need to listen to the biologists?"[55] he does have a goal of fewer predators.

Most predator kills are compensatory as they focus on weaker animals as prey and predators kill animals that would have died from another cause.[56] For example, predators including wolves have been noted for their role in limiting the spread of chronic wasting disease amongst ungulates.[57] The term "struggling ungulate populations" is ill-defined. Some areas reported as being below objective are areas where ungulate populations were never great, including heavily forested areas within Region 1 that lack the large high open meadows that more productive areas of the state have.[58] Objectives for these areas are likely set too high and not comparable to more productive ungulate habitats.

At 3:33:27, Commissioner Burrows said, "With all the controversy we've had both season setting for predators and ungulates, I think what I've heard from either side of the aisle when they're frustrated with it is they don't understand, there's no metrics and there's not predictability there. I think if we can add that predictability for both the predator and the prey standpoint, we have ungulates that are depressed in an area, we can pull that lever. I mean, that should just guide all of our management. If we have depressed ungulates, we pull that lever of let's reduce B tags. Let's potentially increase a pre-increase pressure on a predator that may have that impact on there, whether it's wolves, lions, or bears. And having that for the Commission, for the public, for the department to have that predictability on when we see a metric being it or a long-term average or an objective not being met, we pull a lever for a certain period of time and then it just reverts back once we hit that metric again. I think it would get rid of what some consider the arbitrariness of walking into a season setting meeting and saying 'Do we want I propose 60 wolves in this region. Well, I want 58. I want 62. All right, let's settle on 59 and a half wolves then in this region.' And I think we can rid of some of that if we develop a management strategy with metrics and guidelines to it."

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[55] Commission meeting of August 19, 2026.

[56] L.C. Bender. 2018. Understanding Predation. New Mexico State University Cooperative Extension Services Publications, Circular 688, https://pubs.nmsu.edu/_circulars/CR688/

[57] A.B. Wright. Wolves and Chronic Wasting Disease. International Wildlife Coexistence Network. https://wildlifecoexistence.org/blog/wolves-and-chronic-wasting-disease/

[58] Supplemental Information for Manage Elk Where They are Not. Montana Fish, Wildlife & Parks. https://fwp.mt.gov/binaries/content/assets/fwp/aboutfwp/councils--committees/elk-management-citizen-advisory-group/recommendations/supplemental-information_manage-elk-where-they-are-not.pdf

RESPONSE: There are metrics for seasons and harvest levels set by the Commission. The term "depressed ungulates" is subjective and biased. Elk populations are at record highs and special seasons have been increasingly added.[59] A "pre-increase" pressure on predators indicates this policy would reduce predator numbers absent any perceived decrease in ungulates, which is not biologically justified. The idea that the pressure on predators would "revert back" is belied by the Commission's actions. For example, even though the Montana FWPs recommended that annual wolf harvest be limited to 250, the Commission raised it above that anyway.[60] This is another example where Commissioners are not only ignorant of basic principles of wildlife biology, they are willfully ignorant.

There is no evidence that predator populations are out of control. To the contrary, there is abundant scientific and agency evidence that predator numbers are depressed, including mountain lions, wolves, lynx, wolverine and black bears.[61]

Wildlife populations are not predictable like clockwork. They go up and down depending on climate and drought, food availability, severe weather events, ebbs and flows in predator-prey relationships.[62] Rigid, long-term metrics lack the flexibility required to manage wildlife populations on a sustainable basis.

At 3:35:07, Commissioner Gagnon said, "I would echo Commissioner Burrows' comments about a balanced approach and one that takes into consideration all of the species on the landscape, not a single species within a season setting. So, I think one of the things my request would be to look at a broader scope of the impact of one species on another."

RESPONSE: Commissioner Burrows' approach is not balanced. He calls for "pre-pressure" action against predators.

At 3:35:44, Commissioner Brooke said, "I want to echo everything that Jeff and Commissioner Burrows and Commissioner Gagnon are saying. It's very frustrating when we come into these season settings and we're focused on one predator and we don't have enough information. We have only three weeks or less to come up with really to substantiate to the public why we're making these decisions. And then we come to the next year and we have a whole another set of quotas that we have to make a decision in a very small space with a limited amount of data and then it just becomes more and more polarized and I think we've all seen the polarization that happens before and after these season setting meetings because one side's saying we have ungulates are under objective and one side saying they're over objective and we need more predators. I think for our decision space its better the more information that we have about

[59] Montana 2025 Elk Counts, Montana Fish, Wildlife & Parks. https://fwp.mt.gov/binaries/content/assets/fwp/conservation/elk/counts/2025-elk-count.pdf

[60] Montana Fish & Wildlife Commission meeting August 19, 2026.

[61] Lynx and wolverine are federally protected as threatened species. Mountain lion populations are depressed and black bear populations are being significantly reduced across Montana and especially in Carbon County and in Region 1.

[62] https://bio.libretexts.org/Courses/University_of_Pittsburgh/Introduction_to_Environmental_Science_2nd_Edition_by_Anusha_Balangoda/14%3A_Population_Ecology/14.02%3A_Population_Growth_and_Regulation.

populations and balance of these populations its easier for us to make the decision and explain it to the public. I support something that gives us better decision-making data."

RESPONSE: It is the Commission itself that has had an unhealthy focus, and even obsession, with reducing wolf numbers. It dominates the Commission's agenda. These comments also reveal a fundamental weakness and bias in the makeup of the Commission in that there are no trained biologists and there is a predominance of outfitting and ranching interests who are beholden to their own interests rather than a broader perspective. It's true the Commission frequently takes action on issues they do not understand and for which data are lacking.

At 3:42:40, Commissioner Wargo said, "Comment on some of the measurable stuff. I think that would be some of the policy language down the road. But we do have long-term data, calf recruitment, fawn recruitment some of those other really heavy indicators. I would love it if there were a peer-reviewed study conducted that preceded every Commission decision that we had. It would make it very clear. But I think that there is a lot of existing data that could be leveraged at a higher level. That would probably be at the next step is where I would probably envision that."

RESPONSE: This is a fundamental problem with Commission decision-making. It does not base its decisions on peer-reviewed studies and it frequently ignores peer-reviewed data it has been presented with. Existing data should be leveraged at a higher level. It is the Commission's duty to do so.

At 3:43:18, Commissioner Burrows said, "I think the Commission put in some intent and maybe expanding on the social aspects of some of our decisions as well because we have to admit that season setting for wolves this last time had a lot of social aspects to it. We took some spots and said its more palatable to have a more aggressive harvest in this area and vice versa. We took an area that was not biologically justified recommended by biologists or experts and took a 313 and 316 quota and dropped it from three to one. No, zero biological justification for it, wasn't recommended and we did that. So, I think it's important that we have those area and if that's the goal or direction we want then let's put that on paper. Let's say in the units around the park (Yellowstone), we want to have a very conservative approach to how we manage predators there and we want to have lower quotas maybe than what's recommended. So that way folks aren't frustrated around that area who wonder why it dropped from three wolves to one wolf without a biological justification. Vice versa maybe back into Region 2 some areas in Region 1 in the Bob Marshall where we say we're going to be more aggressive maybe than what is recommended biologically and get after some areas where we have ungulate areas of concern. I think that's probably the most important aspect to me as well. So, we have these metrics, but if there's an area where we're not going to use the metrics and we're going to consider economic businesses in the area, the social aspects to it, that we also have that somehow incorporated into that plan. Because I'd hate to have a plan that hamstrings us too tightly to where you get boxed into a decision that you don't necessarily want to make. For example, the two that I just referenced, 313 and 316 and some areas in Region 1 that have significant ungulate issues."

RESPONSE: Commissioner Burrows admits that increased lethal pressure on predators in the Bob Marshall is biologically unjustified. Commissioner Wargo has a conflict of interest since he a statewide guiding permit with experience in this geographic area. Public sentiment, as well as

negative economic impacts are part of what the Commission must consider, not just the economic benefits to outfitters and guides.

There have been biological justifications provided for lowering the level of wolves killed in Units 313 and 316.[63] Commissioner Burrows indicates that since his position did not prevail in the Commission vote on Units 313 and 316, he and Commissioner Wargo should get increased lethal pressure on predators in their area of the State in the Bob Marshall, even though it is not biologically justified.

Commissioner Burroughs also seems to object to considering public comment.

At 3:45:30, Chair Robinson said, "I mean I personally would not be in support of something that would tie our hands because we do have to take, I mean we have to look at our comments and we have to take into account all of that and social is one of them. And, so even if we have metrics, we still have to look at the big picture on every decision we make."

RESPONSE: This comment seems to take issue with Commissioner Burrows statement.

At 3:45:57, Chair Robinson said, "I'm going to turn back to Quentin, maybe Ken. What kind of motion would it take to give you the information or the guidance that you need if we did choose to move forward with what is being discussed?

At 3:46:23, Quentin Kujala said, "The way I would answer right now is the kind of conversation that you're speaking you know with each other public and staff here listening to that and we've been describing. This is exactly the kind of stuff I thought we would want to hear, you know the end points you know the things where are coyotes in this, where is there definitive research, site specific research, where does that exist, where does it stop, where do you have to extrapolate from there? Something that Chair, as an example, in my response here something that's guiding but also leaves some discretion for the big picture, things that maybe the policy wasn't planning on but for some reason work showed up. So, all of this I've got two pages of notes and I'll just say it this way if we were to stop here, I think we have plenty of fodder to come back with a draft product. I'm not saying it needs to stop right here, but you've already given us on top of Commissioner Wargo's start point with that supplement. It's this kind of stuff we were hoping to get Chair, recognizing that the next meeting, if you do choose to move forward, a reasonable expectation for all stakeholders in the conversation that it would have a more refined piece of product on a piece of paper that everybody could read and further refine in that conversation and choose to move forward with edits or not."

At 3:47:43, FWPs staff Ken McDonald said, "I think the paper by Commissioner Wargo kind of gives a good outline of the intent and things like, focused on ungulate populations of concern. That's the kind of stuff that helps us focus in on what specifically you're looking at."

[63] B. Cassidy, D.W. Smith, K. Cassidy, D. Stahler, M. Hebblewhite. 2024. Harvest of transboundary wolves from Yellowstone National Park is largely additive. Journal of Applied Ecology 2024:61:2180-2193.

At 3:48:05, FWPs Director Christy Clark said, "I just want to say we'll have several bites of this apple. The MAPA process is a long one and it's a really transparent one. So, we'll have lots of opportunities to come back to the table and hear concerns and move forward from there too."

At 3:48:27, Chair Robinson said, "It'll be a sausage making exercise. I just want us to have the correct first step into the process."

RESPONSE: The public cannot have reasonable expectations from this Commission, which is starting from an admittedly biologically unjustified position. The Commission frequently votes against public comment and peer-reviewed science. It does not inspire public confidence to call this a sausage-making exercise. There is the appearance of a pre-process bias towards Commissioners Wargo and Burrows' position.

The Commission and staff say they want to hear public comment then have a limited public comment period and fail to post a PNI sheet in a timely manner. It repeatedly adds last-minute motions and agenda items without prior public notice which deprives the public of the opportunity to submit written comment prior to Commission meetings and votes.

At 3:48:40, Commissioner Brooke said, "One of the other things that I want to talk about is when we're doing these season settings, whether it's for ungulates or predators, a lot of times there are factors other than predators that are reasons why you have decline in your population. Maybe it's disease or maybe it's changes in habitat that are changing that. And I'd like that to be something that is included in the data that comes to us because when we go home, somebody calls you up and says, 'Well, you didn't get the lion population down enough in this one hunting district.' And then when you go back to the biologist, you find out, well, it's not really a lion problem, it's a drought problem. And so, those are things I would like to have at our disposal when we're making these decisions is what's wrong or what's happening on the ground. We don't really get the heat of that until you get home and then everybody calls you up and says 'What were you even thinking?'"

RESPONSE: This comment points out relevant factors. The two main proponents of this proposal do not incorporate other factors. They suggest that all declines in ungulates are caused by predators alone and can be addressed through increased lethal pressure on predators.

At 3:50:27, Commissioner Lane said, "This is just strictly to create the draft, is that correct?"

At 3:50:32, Chair Robinson said, "And honestly Commissioner Lane, that is the way it is with all this rulemaking. First step is nothing (laughs). I mean, you know, it's just kind of like, yeah, we want to move forward with this idea."

Commissioner Lane said, "Where I was going with it, this is not the formal draft today that we're putting forth. We are just asking them to put forth the draft which will then begin the rulemaking process."

Chair Robinson said, "Which is how every rule making is."

Commissioner Lane said, "This is the not the same as the Petition brought forth to us."

At 3:53:47, Commissioner Burrows said, "If you can get it through the dense Commissioner in Region 2 then everybody should be able to understand it. But MAPA rule in our proposed motion, a MAPA rule notice, a draft rule notice versus a draft predator management policy. Are those the same thing or so we're authorized at least the proposed motion was authorized staff to prepare a draft MAPA rule notice for a predator management policy. Is that just a notice that you're going to go out and develop a predator management policy or is that actually a draft ready to introduce to the public and MAPA process predator management policy draft?"

At 3:53:37, Attorney Hindoein said, "Commissioner Burrows, it would be the preparation of what would be a draft MAPA notice of the policy. And as I said in my earlier comments, we may not hit a line drive with that. That may be something that's brought back. We're going to do our level best to get that to look the way you as a Commission envision in terms of considering these various factors we've talked about today."

At 3:55:44, Commissioner Burrows said, "Follow up. Again, just because of the density out of Region 2, is a draft MAPA rule synonymous with draft predator management policy or are those two different things? I'm struggling to understand what exactly is coming back from the department. You're saying a draft MAPA rule notice. Is that a fully drafted predator management plan by the department for us to then review and the public to review and forward that to the MAPA rule making process?"

RESPONSE: Commissioner Burrows twice referred to himself as dense. After serving as a County Commissioner for 14 years and 3 years on the Commission, he should have a basic understanding of procedure.

At 3:57:06, Commissioner Wargo said, "I move the Fish and Wildlife Commission authorize FWP staff to prepare a draft MAPA rule notice for a predator management policy for the Commission's consideration at a future meeting in accordance with the direction outlined in this discussion. In addition to the direction provided in the supplemental document entitled Development of a Predator Management Policy." Commissioner Brooke seconded.

RESPONSE: No alternative was considered. The only course of action was to approve, prior to receiving public comment. There should have been discussion as to whether this was needed, as several public comments had stated. The motion essentially locks in an approach that was admitted to be biologically unjustified. Commissioner Wargo attempted to modify the language by email during the meeting. Commissioner Wargo was allowed to amend the language of the motion after it had already been made and seconded.

At 4:11:25, Mr. Jeff Darrah with Montana Sportsmen for Fish & Wildlife said, "It's a science-based adaptive predator management plan. Frankly, it gets old whether it's legislature or the Commission meeting to come and have polarized opposite on all these predator issues. A predator management plan can outline strategies to control, maintain or reduce specific predator populations all to protect livestock, human safety and depressed ungulate populations. Montana

does have a wide variety of predators and they are abundant in some areas of the state severely depressing our wildlife herds. It's time to consider this as a factor and that needs managed."

RESPONSE: It is part of a democracy that people have different viewpoints. Forced agreement does not work.

This viewpoint offers no possibility of increasing predator population numbers. There is no scientific evidence that wildlife herds in Montana are severely depressed by predators. For example, there are an estimated 157,308 elk in Montana[64] and 498,761 deer.[65] Mule deer populations are down from the average over ten years but FWPs' report states: "Mule deer estimates are not comprehensively validated with site specific research or enhanced monitoring efforts."[66]

At 4:12:48, Mr. Will Israel, director of the Montana Outfitters and Guides Association said, "We're inspired by the framework championed as the right approach. It begins with ungulate population objective requires biological evidence before triggering management action and applies tools where the science warrants it. It is a conservation policy, not an anti-predator policy."

RESPONSE: The policy draft is not based on biological evidence. Commissioner Burrows admitted that the objective in the Bob Marshall Wilderness is not biologically justified and there is a call for "pre-pressure" targeting of predators for population reduction. There is no peer-reviewed science behind the proposal which several commenters have stated is vague. There is no scientific evidence that ungulate populations in Montana are depressed due to predators.

At 4:17:45, Mr. Chris Morgan with Montana Trappers Association said, "I think every commissioner at least sitting in the room right now has some sort of an appetite has mentioned that in the past."

RESPONSE: It is true that this Commission has repeatedly expressed its appetite for more lethal pressure on predators in Montana and has shown a bias against predators reflected in the rules and policies it has adopted.

At 4:20:50, Marie Buquicchio attempted to play a recording of her students speaking but this was apparently edited out or muted.

NOTE: The Chair's cell phone repeatedly rang throughout the meeting yet she did not mute it.

At 4:29:31, Chair Robinson said, "I'm just going to make a statement that management doesn't mean killing more. Management could be trying to target areas of concern, which is exactly what we're trying to do here, is be more targeted and focused on the areas that need to be targeted. And so, management doesn't necessarily just mean that we want to kill a bunch more predators."

[64] Ibid 59.
[65] Montana Fish, Wildlife & Parks 2025.
[66] 2025 Mule Deer Population Report. Created 2025-09-19.

RESPONSE: The two main proponents of the proposed policy do seem to want to kill more predators, based on unsubstantiated claims and "pre-pressure" targeting of predators. Commissioner Burrows stated that since allowable wolf harvest in Units 313 and 316 were reduced there should be an increase in other units, absent any biological justification. The premise of the policy is that ungulate populations are severely depressed due solely to predators and seeks to increase ungulate populations by increasing lethal pressure on predators. The unbalanced approach taken by this Commission leads to public perception that management is not targeted, but is rather a broad-brush approach to reducing predator numbers.

At 4:30:29, Commissioner Gagnon said," I heard the comments about the naming of the policy, and it really does indicate something as an outcome and I wonder if that is part of the consideration during the development."

At 4:30:40, FWP staff Quentin Kujala replied, "Absolutely. Speak again to the very fundamental first step. Whatever else the language would be characterized if this moves forward at whatever next commission meeting it would be, it would be draft from top to bottom, from left to right and of course that would be public venue just as this one is here today."

RESPONSE: This answer evades the perception that the name of the policy indicates a pre-determined outcome rather than an objective review of scientifically-derived facts.

At 4:32:28, Attorney Hindoein said, "From a technical standpoint, there probably wasn't a legal obligation to solicit public comment on this because it's not a final agency action. It's two or three or four steps removed from the point in time when the public is actually commenting on something that you as a Commission or an agency for purposes of MAPA would be taking action on as a final action."

RESPONSE: Public comment is legally required since there is a decision point and final action as to whether to commit substantial amounts of public funds through FWPs staff time towards initiating and completing the proposed policy. It was on the Committee's agenda, there is a motion to approve and a vote taken. A decision to expend public funds is an official action.

At 4:35:37, Chair Robinson called the vote. It was approved unanimously.

At 4:36:38, Ms. Kim Bean said, "My main comment is the fact that the frustration you hear Commissioner is the fact we get a PI the day before comment closing and that is a frustration because there's an expectation that we understand what you're thinking and what you want. This is an issue. This is a transparency issue. It's a question in ethics. It's a question in numerous problems that we have. You know, a communication is a very big thing. Understanding what your objective is and we hear your objectives a lot and the objective is usually killing and so there's frustration and it's not that we don't agree with certain things because I think you heard today that some of us do agree but your transparency is lacking and the frustration lies with that. So once again, when we don't see your actions until it's too late, there's a problem."

Analysis of Public Comment

Trap Check Petition

Of 613 written online comments, 143 were in favor of 24-hour Trap Checks (23.3%). There were 452 comments opposed to the 24-hour Trap Check Requirement (73.7%). There were 18 who took no specific position (2.9%),

Of 3 written and mailed comments, 1 was in favor (33%) and 2 were against (66%).

Of the 31 oral comments, 17 were in favor (54.8%) and 7 were opposed (22.6%). There were 7 comments that stated they support either an amendment, a compromise or made a general statement opposed to wolf killing (22.6%).

A total of 5 comments were flagged for profanity. All 5 were from opponents.

Common themes from proponents:

•Common sense.
•More humane and will reduce suffering.
•Will limit by-catch of non-target species.

Common themes from opponents:

•24 hours is not enough time.
•Impossible or nearly impossible.
•Bad weather including snow may prevent trappers from checking their traps.
•Proponents are anti-trapping.
•Checking traps more frequently will leave human scent and reduce trapping success.
•Trapped animals do not suffer

Bear Spray Petition

Of 340 written comments, 2 were unrelated to this specific Petition. 77 were in favor of the Bear Spray Petition (22.6%). There were 261 comments opposed to the Bear Spray Petition (76.8%).

Of the oral comments, 12 were in favor (60%), 6 were opposed (30%) and 2 called for an amended version (10%).

A total of 6 comments were flagged for profanity and 1 contained offensive language. All 7 were from opponents.

Common themes from proponents:

•Common sense.
•Will prevent injury and death to humans and bears.

•Similar to hunter orange and seat-belt provisions.

Common themes from opponents:

•decision to carry bear spray is a personal decision and personal freedom; petitioned rule is government overreach
•supporters are anti-hunting and anti-trapping
•petition singles out hunters and trappers

Predator Management Policy

Of 107 online written comments, 26 were in favor (24.3%), 44 were opposed (41.1%), and 37 took no specific position in favor or against (34.6%). A few commented on either the bear spray or trap check petitions.

Of 18 oral comments, 5 were in favor (27.8%), 9 were opposed (50%) and 4 (22.2%) took no specific position (not enough information; pro-wolf).

Common Themes:

•Proposal was too vague and did not have enough supporting information.
•Against predator trapping and hunting and support wolves.
•Unjustified targeting of predators.

Conclusions and Recommendations

The September 24th Commission Special Meeting cannot be viewed in isolation. When considering previous and subsequent meetings, a clear pattern is apparent. This pattern shows a lack of respect for public comment. Late additions of motions and agenda items the day before or even the day of a meeting leave no real possibilities for citizens to submit meaningful written comments. For people who work, and who cannot attend Commission meetings either in person or virtually online, depriving them of the opportunity to submit written comment is a total deprivation of their right to comment.

If these actions were a one-time event, they might be attributed to an oversight or lack of understanding of proper procedure. However, the serial nature of these breaches of protocol and MAPA requirements reveals a lack of respect, and perhaps, even a disdain for public comment.

Even when extensive public comment is taken, the Commission routinely ignores the majority viewpoint and also overrides the recommendations from Fish, Wildlife & Parks biologists. Since there are no biologists on the Commission, paying attention to what the biologists have to say is vital to establishing sound policies and regulations for fish and wildlife protection and management, which the Commission is charged with under Montana law.

Recommendations

Short-Term

•prohibit addition of motions, amendments and agenda items to meeting agendas within 20 business days of any meeting of the Commission;

•require adequate advance public notice of meetings and agendas that are broad-based and not limited to email lists and select organizations;

•require a minimum of 25 days for written comment periods. Montana is a large state and not all people have the time or resources to drive to Helena. Many people have jobs that do not allow them to attend meetings virtually during business hours.

•require Commission staff to contact petitioners and explain exactly what their rights are and what the procedures will be at meetings where their petitioned actions are considered (for example, up to a 10-minute presentation to the Commission);

•require a uniform time period for commenters to make oral statements. Previous Commission meetings have allowed 2 minutes for each person in physical attendance while those attending virtually were given 1 1/2 minutes. Some people have had their time shortened to 1 minute at the discretion of the Chair and for the convenience of the Commission. This is fundamentally unequal and unfair. Montana is a large state and not all people have the time or resources to drive to Helena to attend meetings in-person.

Longer-Term

•ensure that at least two members of the Commission have a college degree in wildlife or fisheries biology or a closely related subject;

•require all Commission members to attend a short course in MAPA requirements, proper meeting protocols and the importance of public comment in decision-making;

•require all Commission members to attend a short course on the basic principles of wildlife biology, ecosystem management and the role of predators and carnivores in regulating wildlife populations and ecosystem functions;

•alternate the terms of Commission members so that they overlap administrations so that no one Governor can appoint all the members of any one Commission.

This report was prepared on behalf of Footloose Montana, Gallatin Wildlife Association and Flathead-Lolo-Bitterroot Citizen Task Force.

https://www.footloosemontana.org/
https://www.gallatinwildlife.org/
https://montanaforestplan.org/