

BEFORE THE DEPARTMENT OF FISH, WILDLIFE & PARKS
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	RULEMAKING PETITION
Rule pertaining to the requirement of	)	
hunters and trappers to carry bear	)	
spray and have it readily accesible	)	
while engaged in the activity of	)	
hunting or trapping while in grizzly	)	
bear habitat within the State of	)	
Montana	)	

TO: All Concerned Persons

1. Petitioner's names and addresses are Flathead-Lolo-Bitterroot Citizen Task Force, Patty Ames, president, PO Box 9254, Missoula, MT 59807; Montana Wilderness Education School, Kari Gunderson PhD, Swan Valley, MT 59826; Gallatin Wildlife Association, Clinton Nagel, President, PO Box 10571, Bozeman, MT 59719; Save Our Cabinets and Rock Creek Alliance, Mary Costello, director, PO Box 1406, Trout Creek, MT 59874; Footloose Montana, Anja Heister, executive director, PO Box 8884, Missoula, MT 59807; Wilderness Watch, George Nickas, executive director, PO Box 9175, Missoula, MT 59807; Swan View Coalition, Keith Hammer, Chair, 3165 Foothill Rd, Kalispell, MT 59901; Alliance for the Wild Rockies, Mike Garrity, executive director, PO Box 505, Helena, MT 59624; Friends of the Bitterroot, Jim Miller, President, PO Box 442, Hamilton, MT; Friends of the Wild Swan, Arlene Montgomery, PO Box 103, Bigfork, MT 59911; WildEarth Guardians, Adam Rissien, ReWildling Manager, 127 W. Broadway, Missoula, MT 59801; Bold Visions Conservation, Stephen Capra, executive director, PO Box 941, Bozeman, MT 59715; Sierra Club Montana, Caryn Miske, director, PO Box 7201, Missoula, MT 59807; Save the Yellowstone Grizzly, Dan Sullivan, Treasurer; PO Box 2242, Livingston, MT; Conservation Congress, Denise Boggs, director, 1604 1st Ave S, Great Falls, MT; Great Bear Foundation, Shannon Donahue, Executive Director, PO Box 9383, Missoula, MT 59807; People and Carnivores, Lisa Upson, Executive Director, PO Box 6733, Bozeman, MT 59771; Glacier-Two Medicine Alliance, Peter Metcalf, PO Box 181, East Glacier, MT 59434; executive director, Mary B. Price, 222 Lawrence Street, Missoula, MT 59801; James Costello, PO Box 1406, Trout Creek, MT 59874; Constance Poten, 4175 Rattlesnake Dr Missoula , MT 59802; Missoula, MT; Deborah Slicer, 32050 Old Spur Rd, Huson, MT 59846; Michael Hoyt, 598 Green Tree Lane, Corvallis, MT 59828; Anja Heister PhD, 2120 Hummingbird Dr. Missoula, MT 59808; Claudia Narcisco, Missoula, MT; Greg Price, 644 Cleveland, Missoula, MT 59801; Sharon Lamar, 757 Tanager Trail, Swan Valley, MT 59826; Michael Jarnevic, PO Box 277, Milltown, MT 59851; Kathy Kinzfohl, 22217 Old Mill Rd, Swan Lake, MT 59911; Cecilia Mink, 1035 Pleasant Way, Whitefish, MT 59937; Charlotte Heldstab, 200 Evers Creek Road, Whitefish, MT; Susan Misgen, PO Box 537, St, Ignatius,

MT 59865; Doreen and Joe Filson, 811 Jackson St. Helena, MT 59601; Sherry L Toft, 1532 W Sussex Ave, Missoula, MT 59801; Nancy Ostlie, 263 Painted Hills Rd, Bozeman, MT 59715; Dr. Kevin Boileau, PhD, 235 S Idaho St. Dillon, MT 59725; Christina Ragsdale, 2461 Smith Creek Rd, Victor, MT 59875; Rozanna Cadle, 31365 Walking Horse Lane, Big Arm, MT 59901; Carla Abrams, 1289 Rover St. Missoula, MT 59801; Jennifer Krueger, 9 Contour Rd. Missoula, MT 59802; Brooks Leete, 26 Rock Creek Circle, Red Lodge, MT 59068; Cliff Wenzek, 550 West Evers Creek Rd, Whitefish, MT 59937; Lori Fisher, 345 E California St., Kalispell, MT 59901; Michael Eggum, 908 S. Adams Ave, Red Lodge, MT 59068; Brooks Watson, 402 Chicken Creek Rd, Livingston, MT; Diana Brandt, 3050 Old Darby Rd #129, Darby, MT 59829; Justin Anthony 201 S. 4th St. W., Missoula, MT 59801; Glenn Monahan, 420 N 10th Ave, Bozeman, MT 59715; Bill Simkins, 426 W. Cleveland St. Bozeman, MT 59715; Amy Greer, 2142 Poppy Lane, Corvallis, MT 59828; Peg Brownlee, 15675 Queen Anne's Lane, Florence, MT 59833; Joel Vignere, PO Box 194, Lakeside, MT 59922; Michelle Wyler, PO Box 1246, Lakeside, MT 59922; Dixie Irvine, 218 Lakeside Dr, Lolo, MT; Susan Bilo, 885 Brookdale Dr, Bozeman, MT 59715; Lisa Patenaude, 2210 41st West, Billings, MT; Peter Guynn, 1868 Buerger Rd, Condon, MT 59826; Cesar Hernandez, 12 Picadilly Lane, Heron, MT 59844; Stanley Gauthier, PO Box 126, Kila, MT 59920; Tom Gifillan, 355 Twin Bridges Rd. Whitefish, MT; Kathleen Engstrom, PO Box 868, Stevensville, MT 59870; Michael Bader, 700 Longstaff Street, Missoula, Montana 59801; Louisa Willcox, Livingston, MT.

2. Petitioners are seeking ways to reduce conflicts between grizzly bears and humans. We believe that requiring hunters and trappers to carry bear spray and have it readily accessible is a public safety issue which can save the lives of humans and bears. The Montana Constitution guarantees citizens the right to a clean and healthful environment. This includes healthy populations of grizzly bears, the State Animal. As supporters of grizzly bear protection, Petitioners are affected by each grizzly bear mortality in Montana, particularly those considered preventable or avoidable. The loss of human life or serious injury is tragic and to some extent is avoidable.
3. Conflicts between hunters, trappers and grizzly bears have significantly increased in recent years in the Northern Continental Divide Ecosystem (NCDE) and the Montana portion of the Greater Yellowstone Ecosystem (GYE). These conflicts have included severe mauling of people and numerous grizzly bears have been killed in Defense of Life (DOL) incidents. In many of these incidents, people engaged in hunting activity were not carrying bear spray or did not have it readily accessible.
4. Hunting and trapping in grizzly bear habitat is inherently dangerous. Hunters often stalk quietly alone through thick brush and forest, often wear musk odors that mask human scent and are next to freshly killed animals that may attract bears. Trappers have caught several grizzly bears in their traps within Montana and unknowingly approaching a trapped grizzly bear is very dangerous. The use of baited and scented traps can attract bears from significant distances.

5. Incidents between bears and humans have occurred when hunters return to retrieve game carcasses. Gut piles left behind also attract grizzly bears and can pose a threat to hunters and other users unaware of their presence.
6. Elk populations are at historic highs and more permits are being offered and thus more hunters are in the field. Grizzly bears have expanded their distribution area in Montana and thus there is more overlap between hunters, trappers and grizzly bears. The Montana Department of Fish, Wildlife & Parks has said that people can possibly encounter a grizzly bear anywhere in the western half of the State.
7. Grizzly bears can detect the scent of meat from a mile or more and some grizzly bears have been known to move towards the sound of gun shots as they associate it with freshly killed dead animals and gut piles. Encounters have occurred when hunters retrieve game meat.
8. Bear spray has been shown to be effective at resolving bear-human conflicts in a non-lethal and injury-free way. Bear spray is effective at reducing the risk of injury or death in these situations. Many survivors of grizzly bear encounters and attacks have stated bear spray saved them from serious injury or death.
9. Carrying bear spray and having it readily accessible is recommended online and in public service and media announcements by the Montana Department of Fish, Wildlife & Parks, the National Park Service, the U.S. Forest Service, the U.S. Fish & Wildlife Service and other entities.
10. A brochure published by the Interagency Grizzly Bear Committee and distributed by Montana Fish, Wildlife & Parks states: "I already carry a gun when I hunt. Do I still need bear spray? Yes! Bear spray requires less accuracy than bullets fired at a moving target, especially when you're under stress. Accidental discharges or badly aimed firearms can kill people, while bear spray has never caused a fatality. Bear spray leaves the bear alive, and less likely to approach humans in the future."
11. However, these recommendations are not binding and have not prevented the increasing frequency of hunters shooting grizzly bears rather than deploying bear spray or even having it accessible. In fact, the increases in DOL kills have grown out of proportion to both human and grizzly bear population growth. Between 2009-2024 DOL kills in Montana increased by 192.3% while the NCDE population of grizzly bears grew by 43.8%. The number of DOL kills by year are shown in Table 1 and Table 2. These are only the reported numbers. Some DOL kills are not reported. Several years there were more than 10 compared to the years 1991-2008 when the most in any year was 4. DOL kills

per year increased from 1.1 from 1991-2008 to 7.7 from 2009-2025, a seven-fold increase.

12. The “Efficacy of Bear Deterrent Spray in Alaska”* (Smith et al. 2008; Journal of Wildlife Management) found that:

- Red pepper spray stopped bears’ undesirable behavior 92% of the time when used on brown bears; 90% for black bears and 100% for polar bears.
- Of all persons carrying sprays, 98% were uninjured by bears in close-range encounters.
- All bear-inflicted injuries (n = 3) associated with defensive spraying involved brown bears were relatively minor (i.e., no hospitalization required).
- In 7% (5 of 71) of bear spray incidents, wind was reported to have interfered with spray accuracy, although it reached the bear in all cases.
- In 14% (10 of 71) of bear spray incidents, users reported the spray had negative side effects upon themselves, ranging from minor irritation (11%, 8 of 71) to near incapacitation (3%, 2 of 71).
- Bear spray represents an effective alternative to lethal force and should be considered as an option for personal safety for those recreating and working in bear country.

*Study included some incidents involving trained bear managers and resource employees.

13. Recently, two U.S. Army soldiers repelled a grizzly bear in Alaska by using bear spray which prevented serious injury or death to both soldiers.

14. The Department and the Commission have the authority to require that hunters and trappers carry readily accessible bear spray as a public safety concern using the same authority that requires hunters to wear hunter orange (87-6-414, MCA. Failure to wear hunter orange while big game hunting). This rule is for the purpose of preventing injury or death to hunters. Montana also prohibits hunting between sunset and sunrise. Requiring hunters to carry readily accessible bear spray also has the purpose and intended effect of preventing injury or death to hunters and trappers.

The enabling legislation for the Department is preserved as follows in the Montana Code Annotated: 87-1-201. 87-1-201. Powers and duties. (1) Except as provided in subsection (12), the department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary programs that encourage hunting access on private lands that promote harmonious relations between the landowners and the hunting public. The department possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) Except as provided in subsection (12), the department shall enforce all the laws of the state regarding the protection, preservation, management, and

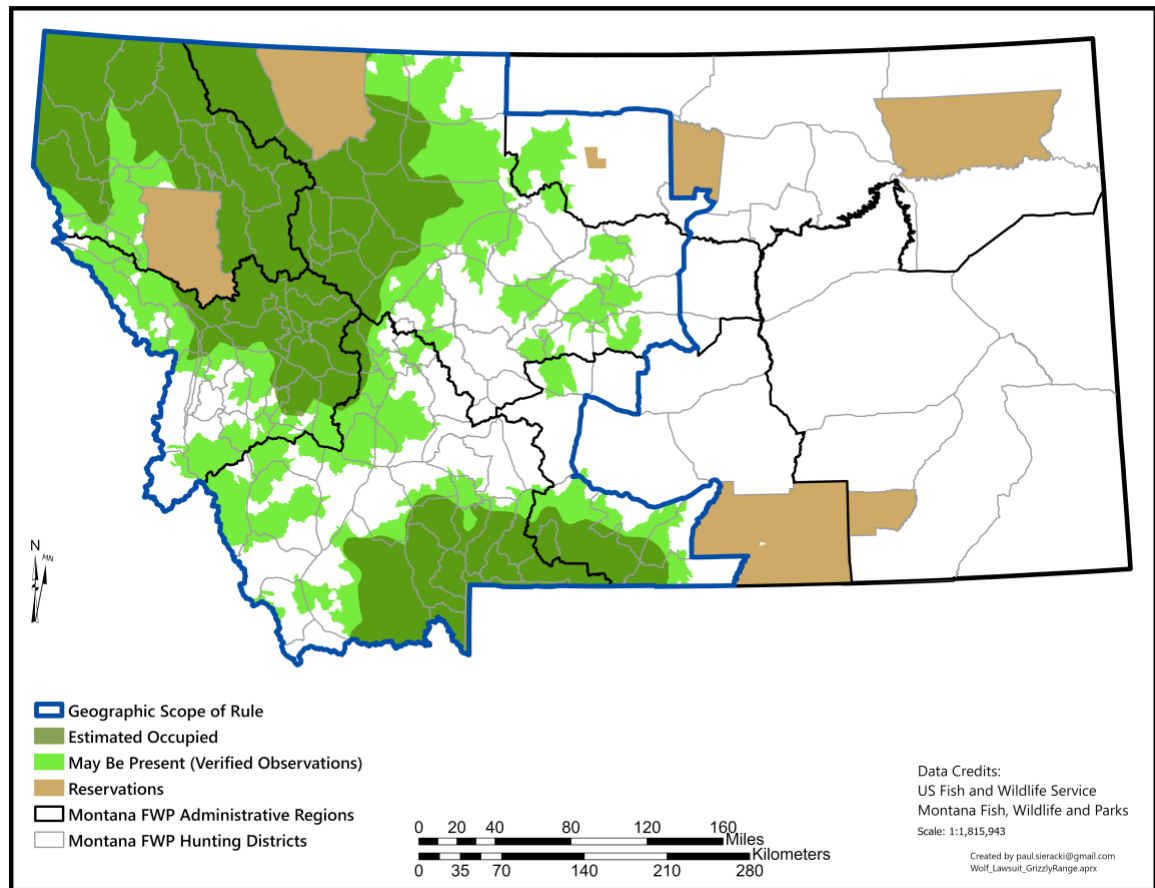
propagation of fish, game, fur-bearing animals and game and nongame birds within the state.

(7) Except as provided in subsection (12), the department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of Title 87, chapter 2, that in its judgment will accomplish the purpose of chapter 2.

ADOPTION:

The rule as proposed to be adopted would provide as follows:

- (1) A person may not hunt or trap any animals in this state or accompany any hunter as an outfitter or guide within the area shown on the map under any of the provisions of the laws of this state without carrying and having readily accessible bear spray at all times while hunting or trapping in grizzly bear habitat.
- (2) As used in this section, "bear spray" means a non-lethal aerosol deterrent commercially available used to deter aggressive or charging bears to reduce lethal encounters and injuries to humans and bears.
- (3) The department shall make rules to implement this section.
- (4) A person who violates this section shall be subject to a written warning or a fine of not less than \$25. A second offense shall be subject to a fine not less than \$100. In addition, at the discretion of the game warden, the person may be subject to forfeiture of any current hunting, fishing or trapping licenses issued by this state for 12 months from the date of the violation.
- (5) A guide or outfitter who violates this section by failing to ensure that all clients carry and have readily accessible bear spray when in grizzly bear habitat within the state of Montana shall be subject to a fine of not less than \$100. A second offense shall result in a fine of not less than \$250 and at the discretion of the game warden, said guide or outfitter may be subject to a suspension or termination of their outfitting or guiding permits.



(6) The Geographic Scope identified by Federal Court Order for grizzly bear habitat: All of Montana Fish, Wildlife & Parks Wildlife Management Regions 1, 2, and 3; all areas south of I-90 and west of Laurel along the border of the U.S. routes 212 and 310; all areas west of U.S. Highway 89 south of Great Falls, and all areas west and south of U.S. Highway 87 from Great Falls to the intersection with the border of Region 4 near Loma to the Canadian border.

Persons known to petitioners to have an interest in the proposed agency action are individual hunters, hunting organizations, hunting outfitters and guides, trappers, land and wildlife management agencies and conservation organizations.

Petitioners request a hearing or oral presentation for expression of petitioner's and other interested persons or organization's views.

WHEREFORE, petitioners request the Department of Fish, Wildlife & Parks to initiate rulemaking proceedings in accordance with MAPA, and to adopt the proposed rule set forth in this petition. In accordance with 1.3.308 RULEMAKING, PETITION TO ADOPT, AMEND OR REPEAL RULE, section 3(b) the Department and Commission shall, within 60 days after the date of the submission, either: (i) issue an order denying the petition; or (ii) initiate rulemaking proceedings and must: (a) be in writing; (b) be based on record

evidence, including any information submitted by the petitioner, the agency, and interested persons; and (c) include the reasons for the decisions.

On behalf of 65 signers:

Patty Ames

Patty Ames, President, Flathead-Lolo-Bitterroot Citizen Task Force

July 21, 2026

Attachment A. Defense of Life Kills in the Northern Continental Divide Ecosystem

DOL Kills in the NCDE from 2009 to 2025.

<u>Year</u>	<u>NCDE</u>
2009	6
2010	11
2011	9
2012	11
2013	4
2014	7
2015	14
2016	7
2017	15
2018	6
2019	8
2020	7
2021	13
2022	3
2023	2
2024	1
2025	7
Total	131

Years with data: 17 Number of DOL kills = 131 Average DOL kills per year = $131/17 = 7.7/\text{year}$

Attachment B. DOL Kills in the NCDE from 1991 to 2008.

Year	NCDE
1991	0
1992	0
1993	1
1994	1
1995	0
1996	no data -
1997	no data -
1998	no data -
1999	1
2000	1
2001	2
2002	2
2003	1
2004	1
2005	2
2006	0
2007	4
2008	1
Total	17

Attachment C. Select Media Stories

<https://fwp.mt.gov/binaries/content/assets/fwp/montana-outdoors/sketchbook/2024/sketchbooknd24.pdf> by Tom Dickson, editor, Montana Outdoors published by Montana Fish, Wildlife & Parks

July 16, 2025

<https://flatheadbeacon.com/2025/07/16/grizzly-bear-deaths-conflicts-continue-to-rise-in-northwest-montana/>

“Mountain biker safely repels bear encounter near Troy,” according to a July 15 release from the agency about a cyclist who on June 26 deterred an approaching bruin on forestland near Troy last month by deploying bear spray. That news release featured a video of the mountain biker’s firsthand account of the incident.

https://www.youtube.com/watch?v=r_VbDMJ-5qk

https://www.choteauacantha.com/news/article_d220fe14-6238-5363-9100-c9498fdb54e2.html

3 cubs will be counted as mortality. Montana Fish, Wildlife & Parks grizzly specialist Mike Madel: Madel emphasized that all bow hunters and bird hunters need to be “bear aware” when they are out in the field along the Rocky Mountain front this fall. Hunters should carry bear spray and should avoid dense, brushy patches, where bears could be bedded down. They should also be on the lookout for bear scat and day beds, and should avoid dense berry patches that are likely to attract bears at this time of year. Madel also maintains that hunters should carry bear spray and be ready to use it. “Bear spray could have turned this an entirely different way,” he said.

November 7, 2025

<https://missoulacurrent.com/hunters-grizzly-bears/>

FWP Region 2 spokeswoman Vivaca Crowser said the hunters had bear spray but didn't have it with them when they saw the bears. They had left it with some other gear when they started hiking up to get the deer.

June 26, 2026

<https://yellowstonian.org/chat-about-bear-spray-in-grizzly-county/>

SERVHEEN: I tire of the macho BS that only guns will deter a bear. I am a gun owner and used to carry a large pistol backpacking in the backcountry before bear spray was tested and proven. Now, I only carry bear spray and everyone I hike with including my family members all carry bear spray. I carry it because it works and has been proven to work.

May 25, 2026

<https://abcnews.com/GMA/Living/hikers-speak-after-grizzly-bear-encounter-caught-camera/story?id=133376439>

"It definitely looked at us and then that's when I let out a little spray and it turned the other way and ran off into the woods by the lake," Van Zeeland said.

August 28, 2025

<https://www.sfgate.com/national-parks/article/bear-spray-saved-hiker-glacier-national-park-21020675.php>

"Her hiking partner deployed bear spray, causing the bear to immediately run away," according to the release.

May 21, 2025

<https://dailymontanan.com/briefs/mushroom-foragers-kill-grizzly-bear-near-choteau/>

<https://cowboystatedaily.com/2025/05/23/grizzly-shot-killed-after-charging-mushroom-pickers-near-montana-prairie-town/>

These men did not have bear spray.

<https://cowboystatedaily.com/2025/04/28/montana-anglers-fend-off-charging-grizzly-with-gunfire/>

Article includes story about two Anglers "fending off" grizzly with gunfire.... No mention of bear spray.

November 7, 2025

<https://cowboystatedaily.com/2025/11/07/female-grizzly-and-two-yearlings-charge-montana-hunters-two-bears-shot-and-killed/>

"It is very unlikely that a mamma bear and her cubs were actually attacking. It was a mom likely being startled and defending her cubs after being startled by a human."

January 29, 2019

<https://wyofile.com/game-and-fish-bear-spray-repelled-killer-grizzly/>

August 28, 2018

<https://abcnews.com/US/parents-bear-spray-fend-off-grizzly-bear-attacked/story?id=57454813>

"We are grateful for the bear spray and training which I am convinced saved at least one life on Thursday," the boy's father wrote, Vering said. "None of the three victims who died as a result of a bear attack in the last decade used bear spray, according to KTMF"

May 30, 2014

<https://explore-rentals.com/bear-spray-saves-mans-life/>

A surprised mother grizzly charged the man three times, but he was able to avoid an attack by discharging bear spray at close range each time she charged, said Montana Fish, Wildlife & Parks spokeswoman Andrea Jones Friday. "The message is the same as always: It's always important to carry bear spray. It is effective," Jones said.

November 13, 2025

https://missoulain.com/opinion/letters/article_24238abd-3679-46d7-8aa7-c1051d78c093.html

May 29, 2024

<https://www.outdoorlife.com/survival/grizzly-attack-survivor-bear-spray-exploded/>

Burke was badly wounded in the attack, and he says he likely would have been killed if not for the canister of bear spray he held in his hand... "The number one thing that kept me alive during the attack was reading and understanding what to do in the event of a bear attack and being prepared with the bear spray," Burke writes in the Instagram post.