

ISSUES SUBMITTAL FORM

Date:

10/13/2021

ISSUE:	Should the Commission adopt a regulation authorizing livestock owners and their agents to haze gray wolves to prevent or reduce injury to livestock?
DISCUSSION (FACTS AND FIGURES, EXPLANATION OF ISSUE):	
Title 33 enables the Commission to adopt rules authorizing the hazing of gray wolves to prevent or reduce injury to livestock. See § 33-6-128(1), CRS (it is unlawful to harass any wildlife unless permitted by CPW); § 33-2-105.8(1)(d), CRS (gray wolf restoration must be designed to resolve conflicts with farmers and ranchers); § 33-9-102(2), CRS ("In addition to any other specific grant of rule-making authority, the commission may adopt or revise any rules ... that the commission deems necessary or convenient to effect the purposes of, and fulfill its duties under, this title."). Absent a hazing regulation, efforts to disturb or annoy gray wolves would constitute unlawful harassment. See § 33-1-102(24), CRS ("‘Harass’ means to <u>unlawfully</u> endanger, worry, impede, annoy, pursue, disturb, molest, rally, concentrate, harry, chase, drive, herd, or torment wildlife.") (emphasis added). W-10 #1000.A currently prohibits the harassment of nongame species, including threatened and endangered wildlife. W-10 #1000.A contains numerous exceptions, but none pertains to wolves. This issue paper proposes to amend W-10 #1000.A to authorize livestock owners and their agents to haze gray wolves under certain circumstances and to specify lawful hazing techniques. Permitted hazing techniques are designed to frighten or annoy wolves in order to dissuade them from preying on livestock. The use of any techniques not specifically authorized in regulation would constitute unlawful harassment. Similarly, the use of any techniques resulting in the injury or death of a gray wolf would constitute unlawful harassment or an illegal take. Adding a hazing exception to W-10 #1000.A is consistent with section 33-2-105.8(1)(d), CRS, which requires restoration of gray wolves to be designed to resolve conflicts with livestock owners. Such an exception is also reasonably necessary to prevent or reduce potential injury to livestock by the gray wolves currently in the state. Hazing techniques are used in other states to reduce wolf-livestock conflict and depredation. Hazing allows livestock owners and their agents to attempt to temporarily mitigate or prevent livestock damage from occurring. Appropriate hazing can reduce livestock damage, increase social tolerance, and improve attitudes towards wildlife that might otherwise cause damage. Hazing would not be permitted if gray wolves are on the list of federally threatened or endangered species unless previously authorized by the United States Fish and Wildlife Service. Because Mexican gray wolves (<i>Canis lupus baileyi</i>) are currently listed as federally endangered, this rule does not authorize hazing of Mexican gray wolves that may disperse into the state.	
STATE LAW REQUIRES CPW TO SOLICIT INPUT FROM STAKEHOLDERS THAT MAY BE AFFECTED POSITIVELY OR NEGATIVELY BY THE PROPOSED RULES. THE FOLLOWING STAKEHOLDERS HAVE BEEN ADVISED OF AND INVITED TO PROVIDE INPUT ON THE REGULATORY CHANGES PROPOSED IN THIS ISSUE PAPER:	
IT IS ASSUMED THAT ALL NECESSARY INTERNAL PARTIES HAVE BEEN NOTIFIED.	
Technical Working Group and Stakeholder Advisory Group	

ALTERNATIVES: (POSSIBLE OUTCOMES or POSSIBLE REGULATIONS):	
1. *Preferred Alternative*: Create new regulation #1000.A.10 as follows: Livestock owners or their agents are authorized to use hazing techniques when necessary to prevent or reduce injury or damages to livestock caused by gray wolves (<i>Canis lupus</i>). a. "Hazing techniques" means the use of: (i) Livestock guard animals, (ii) Fladry or electrified fladry, (iii) Cracker shells, rubber buckshot, rubber slugs, and bean bag rounds, (iv) Scare devices or tactics such as propane canons, vehicles, ATVs, noisemakers, fox lights and motion- and radio-activated guard devices. b. Hazing that results in the injury or death of a wolf is not permitted. Any person who injures or kills a wolf must report the same to the Division within 48 hours. c. Hazing must be consistent with federal law. If gray wolves are on the list of federally endangered or threatened species, hazing is prohibited unless authorized by the United States Fish and Wildlife Service. d. For purposes of this rule, "livestock" is defined in § 35-1-102(6), CRS.	
2. Status Quo: No amendment to W-10 regulation.	
Issue Raised by:	Research, Policy and Planning Section
Author of the issue paper (if different than person raising the issue):	Game Damage, Terrestrial, and Colorado Attorney General's Office
CC:	
APPROVED FOR FURTHER CONSIDERATION BY:	
REQUIRES NEW SPACE IN THE BROCHURE?	☐ YES ☒ NO
ARE ADEQUATE STAFF AND FUNDING RESOURCES AVAILABLE TO IMPLEMENT?	☒ YES ☐ NO
REGION, BRANCH, OR SECTION LEADING IMPLEMENTATION	
RECOMMENDED FOR CONSENT AGENDA?	☐ YES ☒ NO