

**Grizzly bear delisting public comment issue and response drafts – Idaho, Montana,
and Wyoming**

Issue 8.5: Many commenters expressed concern about the population objective that the *states* have expressed as their goal. Commenters pointed out that the Service references a management objective of 674 bears within the DMA and references managing for “stability” in their proposed rule. However, the state plans and MOA discuss a “management objective for the DMA of at least a range between 600 and 747 (based on the 95% confidence interval of the estimated average population size between 2002 and 2014) and upon mortality rates to keep the population within this range.” Many commenters interpreted these state plans and statements from state managers as retracting “any commitment to manage for a stable population of 674 bears” and as intentions to reduce the population to only 500 or 600 bears, regardless of the method used to estimate the population size. A peer reviewer noted that instead of “establish[ing] population targets and associated specific harvest criteria,” the States only identified a minimum population size for the total GYE grizzly bear population; the peer reviewer was concerned this oversight could lead to “overharvest” and that “a lag in management response could drive the population below the desired minimum.”

Response 8.5:

Issue 26.5: Commenters expressed concerns that we either did not have or did not share effective plans for facilitating connectivity between the six grizzly bear recovery zones in the lower 48 states (especially in the preamble of the proposed rule). Commenters and peer reviewers both expressed concerns that management plans and regulations will discourage movement of grizzly bears and prevent necessary connectivity, including that:...(4) the proposed rule, the Tri-State MOA, and the Conservation Strategy do not include strong enough commitments and clear partnerships that will ensure grizzly bear habitat connectivity (especially as considerations in any new road construction or highway improvement projects);...(6) all of the state plans will “actively discourage,” “limit,” or “persecute” bears outside the DMA or even remove all bears outside the DMA; and (7) the states have harmful intentions in regards to connectivity since they state in their public comments that the Service cannot and should not

“impose additional requirements as to connectivity for delisting the GYE DPS, where connectivity and genetic exchange do not threaten the populations.”

One commenter suggested that state plans must manage for connectivity rather than managing towards a minimum population level. Many commenters expressed that states should not have grizzly bear management plans specific to the GYE but should instead have comprehensive management plans that integrate all of the grizzly bear populations in their state and discuss how to facilitate connectivity between them. Overall, commenters expressed that states must provide more explicit and robust commitments to ensuring connectivity for delisting to be justified.

Response 26.5:

Issue 38: We received many comments from both the public and peer reviewers regarding hunting boundaries. Several comments recommended that no hunting be allowed within the PCA, the DMA, secure habitat, John D. Rockefeller, Jr. Memorial Parkway, Grand Teton National Park (including on State or private inholdings), in Montana’s Taylor Fork drainage, at food aggregate sites, in connectivity areas and key wildlife corridors, or in other densely populated grizzly areas. Many commenters suggested that Wyoming must recognize NPS’ jurisdiction over the John D. Rockefeller Memorial Parkway. Noting that the boundaries of the PCA and “secure habitat” are hard to identify, comments suggested that hunting be limited to zones that are easier to define geographically. Some commenters suggested that managers create a buffer around Yellowstone and Grand Teton National Parks in which no hunting would be allowed since bears near National Parks are “unwary of humans” and thus more vulnerable to hunters. Additionally, comments requested that the Service assess the impacts of grizzly bear hunting on park inholdings. We also received some public comments recommending that hunting be focused in areas prone to human-grizzly bear conflict so hunters could remove individual problem bears. Some commenters suggested that all Federal lands should be open to hunting. Lastly, one public commenter emphasized that hunters represent a minority of the American public and, since public lands belong to everyone, the public should have a say in how grizzly bears that originate from public lands are managed.

Response 38:

Issue 39: We received comments from peer reviewers and the public expressing concerns with proposed mortality limits. First, many commenters and peer reviewers expressed confusion about the outlined mortality limits and questioned their biological basis. A number of commenters questioned the biological justification for allowing any discretionary mortality at populations less than 674 bears; while some commenters thought this would doom the population, others suggested it would allow for stability but preclude growth. Another commenter requested more explanations as to why we lowered mortality rates for independent females and dependent young, but kept mortality rates for independent males relatively high in populations less than 674 bears. One commenter questioned the rationale for the independent male mortality rate of 15% as the stated “because that level appeared to sustain an increasing population 1983-2001,” which is inconsistent with the rationale used for independent females and dependent young. Other commenters doubted the biological basis and sustainability of independent female mortality limits greater than 7.6 percent (at any population size). Additionally, commenters asked what the mortality rate would be at population levels less than 600 to ensure population growth; these commenters suggested that merely halting all discretionary mortality would not be a sufficient response. A few commenters noted that other larger, more connected populations have much more conservative total mortality limits than the ones proposed in our rule. A number of commenters requested additional clarification in our mortality limits such as: (1) additional explanation on uncertainty around estimated mortality limits; (2) clarification as to “what point within the 95 percent confidence interval the population size estimate refers” when discussing mortality rates; (3) more detail as to what the mortality rate would be at population levels less than 674 bears (i.e., how much less than 7.6 percent); (4) examples of the number of allowable discretionary mortalities from hunting and management removal for each sex and age class for various populations sizes to illustrate how allowable mortality would be calculated (e.g. show how many bears would have been available for hunting from 2002–2014 and how many years would have allowed no hunting); (5) clarification of whether mortality limits would be recalculated annually and how variability would impact management...

We received several comments from the public and peer reviewers suggesting adjustments to our proposed mortality limits including: (1) mortality limits should be more conservative to account for bias associated with the population size and trend and potential threats from an expanding urban-wildland interface; (2) mortality limits should be set at the lower end of the confidence interval because the use of average estimates for vital rates, mortality rates, and population size means there is a 50 percent chance that mortality limits are too high and unsustainable; (3) annual total mortality should be a percentage of the Chao2 population estimate with a range based on the lower and upper confidence intervals; (4) cumulative annual mortality should be indexed monthly or seasonally to alert managers if mortality limits may be exceeded, with a trigger to stop discretionary mortality for the year; (5) discretionary mortality should cease when the population estimate is less than 674 rather than less than 600 bears; (6) if discretionary mortality is allowed at less than 674 bears, then total human-caused mortality should be at the threshold proposed in the 2007 Recovery Plan: Supplement to the Demographic Recovery Criteria; (7) hunting should halt when the lower bound of the 95 percent confidence interval of the population estimate is less than 600 bears; (8) only a fraction of the estimated population available for discretionary mortality should be harvested to avoid overharvest due to uncertainty in population size, a strategy known as proportional threshold harvesting. Commenters and peer reviewers also proposed how to adjust mortality limits in the future, including: (1) discretionary mortality should change in response to potential changes in sex-age classes; (2) hunting limits should consider annual changes in environmental conditions (i.e., drought, fire, or berry crop failures); (3) hunting targets should be spatially explicit, concentrating mortality in the southern and eastern portions of the GYE while encouraging expansion to the west and north.

Response 39:

Issue 71: Several peer reviewers and commenters raised concerns about the implications of limiting monitoring to the DMA. Some commenters interpreted the fact that managers will not consider mortality outside the DMA to mean that bears outside the DMA will have no protections, will be open to “unlimited trophy hunting,” and “could be totally eliminated,” especially considering that Wyoming has claimed they will manage areas outside the DMA as

unsuitable for grizzly bear occupation. Commenters also worried that a failure to count bears outside the DMA will put dispersal and connectivity in jeopardy, permanently isolating the GYE population. Commenters thus requested we monitor grizzly populations outside the DMA or in the entire GYE DPS. They also requested we draw hunting units that cross the boundary of the DMA and count mortalities that occur outside of the DMA towards discretionary mortality quotas.

Response 71:

Issue 44: We received many comments from both the public and peer reviewers regarding the management of human-bear conflict. One commenter suggested that managers in the GYE have not adequately carried out recommendations from the 2009 Yellowstone Mortality and Conflict Reduction Report (Servheen et al. 2009).

A few commenters weighed in on whether they thought the act of delisting would increase or decrease conflict. Many commenters posited that delisting the GYE population of grizzly bears would reduce human-bear conflict because it will allow for more effective population management; these commenters suggested that, if bears remain on the list, and populations thus continue to grow, more bears will be removed as a result of conflicts with humans than the number of bears that would be killed in the context of a regulated hunt. Another commenter was worried that lethal responses to conflict would increase following delisting.

Many commenters and peer reviewers believed we presented an inadequate discussion of methods to manage and reduce conflict; they suggested the following improvements or additions prior to delisting: (1) improved education programs that aim to change attitudes and behaviors of people living in grizzly bear country in order to increase risk tolerance and improve willingness to share habitat (see Issue 60); (2) limits on or elimination of ungulate hunting to reduce defense of life and property kills; (3) funding for programs that reduce bear attractants on public and private lands; (4) incentives for hunters to retreat from downed game; (5) additional law enforcement and field staff; (6) encouragement and funding of alternatives to lethal control of bears (including additional discussions of such methods in state management plans) since lethal control does not increase public tolerance or promote avoidance of future conflict; (7)

preparation of a Grizzly Bear Management Relocation Plan with pre-arranged relocation sites;...and (9) managing for higher wild ungulate populations to decrease livestock depredation.

Commenters also provided suggestions on how to revise state management plans or the Conservation Strategy to better address conflict management, such as: (1) explaining the 33 recommendations to abate grizzly bear conflicts in a 2006 IGBST report and incorporating these into Wyoming's grizzly bear management plan; (2) including in the Conservation Strategy the admonition that managers and citizens should not "reward" or "encourage" bears around roads, campgrounds, cities, or landfills; and (3) changes to the nuisance bears standards. These specific suggestions on the nuisance bear standards included: applying these standards in the whole DMA and the whole DPS; increasing alignment with the nuisance bear standards in the NCDE or providing a biological justification for the discrepancies; committing that managers will not "preemptively" relocate bears to limit grizzly bear expansion (Dood et al. 2006); allowing removed problem bears to be placed in facilities or locations other than "public research institutions or public zoological parks" to increase management flexibility; including the language, "State, Federal, and Tribal agencies will retain Grizzly Bear Management Specialists and law enforcement officers to rapidly respond to conflicts, perform public education, implement proactive sanitation measures such as fencing and livestock carcass redistribution, and assist with grizzly bear relocations and removals;" and only authorizing relocation of a bear if this removal can be temporary since grizzly bears will likely return to their home range.

Peer reviewers also presented a number of additional analyses that could bolster our discussion of human-bear conflict, including: ...(3) tracking of relocated animals to assess the efficacy of relocating problem bears; and (4) additional analysis on how to change mortality management techniques as the number of people living in and recreating in the GYE increases. Peer reviewers also requested an explanation of how conflict bears will be treated inside versus outside the PCA.

Response 44:

Issue 41: Public commenters felt that the States' should prohibit black bear hunting within the DMA, or at the very least within the PCA, in order to reduce human-caused mortality from mistaken identification.

Response 41:

Issue 42: There were several public comments pertaining to concerns about incidental take of grizzly bears. Commenters worried about the use of traps intended for game other than grizzly bears and the potential negative effects of these traps on grizzly bears, especially as grizzlies' hibernation period shortens. Several commenters felt that trapping, as a means of harvest, should be prohibited for any animal within the PCA and/or the DMA to prevent the incidental take of grizzly bears. Several comments pointed out that the state plans do not have a reporting requirement or protocol if/when a grizzly bear is caught in a trap set for other game/nuisance species.

Response 42:

Issue 43: We received public comments asking that we discuss the trade of grizzly bear parts, including the extent of trafficking in the U.S. and the state of current legislation. The commenter suggested that States pass appropriate laws making such trafficking illegal.

Response 43: [We have already written a response to this as it pertains to Federal and international trade laws; however, we would like the states addition.]

Issue 45: There were a number of comments from the public and peer reviewers related to poaching, illegal take, mistaken identity kills, and self-defense kills. Some commenters were concerned that there would not be enough resources to investigate and prosecute poachers and enforce conservation laws without assistance from our special agents. One commenter opined that poaching is rarely investigated or prosecuted and that the details of mortalities that are "under investigation" are not available to the public. Another commenter

worried that victims of encounters with grizzlies have no requirements or incentives to truthfully share the entire story of their encounter.

One commenter stated that state penalties for illegal take (such as poaching), mistaken identity kills, and self-defense kills need to be more clearly articulated and must be more stringent. Commenters asserted that regulatory mechanisms require little to no action against hunters for mistaken identity kills (a product of the McKittrick Policy); commenters thought mistaken identity kills and self-defense kills should be prosecuted as illegal take to better deter grizzly bear killing. One commenter expressed concern about how the Local Law Enforcement for Local Lands Act would impact grizzly bear conservation and law enforcement since it would require the federal government to fund state and local law enforcement to patrol federal lands instead of federal officers.

Response 45:

Issue 60: We received some comments from both the public and peer reviewers requesting increased efforts, time and money towards public Information and Education (I & E) campaigns regarding coexistence with grizzly bears. A peer reviewer noted that modern media, such as phone applications, could be useful tools for I&E. Several commenters believed that control and reduction of human-bear conflicts, in addition to outreach, would be essential to long-term conservation of grizzly bears in the GYE. Commenters suggested that the three state grizzly bear management regulations require all hunters to take and pass a bear identification training (which would instruct on distinctions between black and grizzly bears, identification of grizzly bear age, distinguishing between male and female bears, finding cubs, proper food storage, and the use of bear spray). One commenter suggested that no hunting be allowed in the DMA until hunters in all three states can show 99% proficiency with bear identification.

One commenter claimed that I&E, specifically bear identification training, has failed to reduce human-caused mortality from hunters.

Response 60:

Issue 61: A commenter opined that social support is important to resolving grizzly bear conflicts, not compensation programs for losses. We received a public comment stating that social acceptance of grizzly bears will not improve if we allow more discretion in bear management; instead, the commenter suggested that increased acceptance will come from rigid enforcement of laws and expanded tourism.

Response 61:

Issue 62: One commenter expressed concern that we did not adequately acknowledge the grizzly bear mortalities associated with the annual elk hunt in Grand Teton National Park as a continuing threat. This commenter cited a recent court decision that allowed “an increase in the number of grizzly bears that could be ‘incidentally’ killed in association with the annual elk hunt in Grand Teton National Park.”

Response 62:

Issue 66: Multiple commenters weighed in on the States’ ability to appropriately manage grizzly bears. Many commenters expressed distrust of Montana, Wyoming, and Idaho’s predator management, management some commenters deemed “hostile.” They claimed state management would be harmful or ineffective, based on evidence from past State “mismanagement” of elk, bison, and large carnivores (e.g. wolves), past mistaken identity kills of grizzlies by state wildlife managers, and the fact that flawed and ineffective state management necessitated listing the grizzly bears 40 years ago. Many commenters weighed in on state wolf management, which they deemed “non-precautionary,” inhumane, and detrimental to wolf populations and their ecosystems. One commenter suggested that Wyoming’s management of wolves was “so bad that it has had to be struck down in federal court twice.” Some commenters claimed that the wolf populations in Montana, Wyoming, and Idaho have declined due to unsustainable harvest since 2013 (by 50 percent).

Many commenters suggested that the states have bad intentions for grizzly bear management; they referenced the content of the states’ comment on the proposed rule, in which they “(a) reject the need for federal oversight after the initial 5-year monitoring period, (b) reject

the requirement of connectivity and (c) push for a range of 600-747 bears instead of accepting the population objective of 674 bears,” which many commenters interpreted as targeting a population of 600 bears. Based on statements at public meetings and past actions in some counties, commenters worried that the states may ignore management requirements (like mortality limits and trash removal standards), which are non-binding. Commenters also suggested that States may falsify the number of bears dying of non-discretionary causes and management removals in order “to maximize the number of bears available for hunting.” Another commenter worried about the implications of the fact that the states do not want plans, strategies, or agreements to include language requiring the use the background mortality rates in calculating allowable discretionary mortality in the future.

Commenters worried that State management and decision-making would be more susceptible to the inappropriate political influence of special interests on decision-making because: (1) states allow disproportionate influence of hunting, livestock, ranching, and “extractive use” interests on wildlife management since revenues from these sources are critical in state budgets; (2) states make management decisions based on what is “socially acceptable,” “politically popular,” or profitable; (3) states view carnivores merely as species that suppress the number of ungulates, which are important for the sale of lucrative sport hunting licenses; (4) state legislatures can amend and must approve management plans, which subjects management plans to inappropriate “political pressure;” and (5) state game commissions are not representative of the majority views of the American public since they primarily comprise “less-well-educated white males who disproportionately live in rural areas,” a model that “disenfranchise[s], not only in excess of 99% of the national public currently enfranchised by the ESA, but also the roughly 85% of state residents who don’t hunt.” One commenter asked who would “be the watchdog” for State wildlife management agencies.

Commenters supportive of state management expressed: (1) confidence in the states’ abilities to maintain a recovered population of grizzly bears; (2) that states have an incentive to succeed in grizzly bear management since they do not want them to be relisted; (3) that state management of wildlife will be more nimble, efficient, adaptive, and responsive to local stakeholder needs than federal management; and (4) that those living outside of Montana, Wyoming, and Idaho “should not be dictating the management of the State's wildlife, especially grizzly bears”.

Response 66:

Issue 66.5: Some of the commenters critical of State plans and management practices focused on the difficulties surrounding coordination of management between all the political entities in the GYE. Commenters worried that inconsistent management and lack of communication between the three State entities, tribes, and federal land managers would pose the biggest threat to grizzly bears after delisting, as it could lead to errors in allocation, insufficient or inconsistent enforcement, delays in shutting down hunting seasons, exceedance of mortality limits, violations of recovery criteria, inadequate reduction of discretionary mortality (when needed), population sinks, and lack of genetic connectivity. In order to mitigate this, commenters requested: (1) information on how the states would be sharing and comparing data about mortality and population levels; (2) a formal process for collaboration between the states and the National Park Service to coordinate the management of bears that live primarily on NPS lands; (3) a “unified plan” that takes into account how many bears the other states will take; and (4) additional detail in the Conservation Strategy describing the processes States will use to coordinate with each other. Conversely, one commenter suggested that entrusting the states with grizzly bear management will help state wildlife managers effectively and consistently manage all the wildlife species in their state as a complete and connected ecosystem.

Response 66.5:

Issue 66.55: Many commenters believed that the MOA, Conservation Strategy, and state regulatory mechanisms and management plans are “inadequate” to protect grizzly bears into the future and will not “ensure a stable, thriving, and connected grizzly population.”

Many commenters expressed that the state regulatory mechanisms, MOA, and Conservation Strategy are inadequate because they are not binding. Commenters worried that no entity is required to act if states exceed mortality limits and that states are not compelled to monitor the grizzly population. In order to enhance enforcement of mortality limits, commenters suggested making the Conservation Strategy mandatory and not “voluntary” and instituting penalties for states if they “exceed reasonable mortality thresholds.”

Many commenters provided detailed concerns about the content of regulatory mechanisms (though these concerns were not specific to any state regulation in particular). These included: (1) that spring hunts are irresponsible since “it is impossible to know how many bears will be killed later in the year through management removals, poaching, accidents or natural causes;” (2) that hunters would be able to kill hibernating grizzly bears due to provisions in the Sportsmen’s Heritage and Recreational Enhancement (SHARE) Act of 2015; (3) that states have not considered “what to do with the wounded bears that will escape;” (4) that plans do not explain how the various entities will monitor mortality, revise limits, and prevent decreases in the levels of “scientific oversight” of the population; and (5) regulations lacked safeguards to prevent hunters, outfitters, or poachers from using radio collar frequencies to find collared bears.

Commenters also provided suggestions as to additional content the Service should require in state regulations prior to proceeding with a delisting rule, such as: (1) that an “independent panel of ecological researchers” the total number of limited hunting permits; (2) that managers use a lottery system to distribute these few licenses; (3) that all three states require 12 hour reporting requirements as opposed to 24 hour reporting requirements; (4) prohibitions on the killing of any bear accompanied by other bears; (5) provisions shutting down all hunting for the season once quotas for female grizzlies are met; (6) that states coordinate season dates through the Yellowstone Grizzly Coordinating Committee and time seasons to minimize risks to females; (7) provisions requiring proper food storage and handling of hunter-killed carcasses; and (8) subsidies for bear proof garbage containers to increase affordability and use. Conversely, one commenter suggested that the grizzly bear hunting regulations are too stringent and that normal licensing and hunting procedures should apply to any grizzly bear hunt (i.e., hunts should be open to the public and non-resident hunters); this commenter thought that the hunts should not be special limited or controlled hunts. Another commenter suggested that the Service would fail to honor state wildlife laws if it were to require additional provisions in relation to grizzly bears. One commenter suggested that timing the hunt to minimize female mortality was not a legally binding requirement; this commenter also noted that creating such restrictions would be logistically challenging since denning times are highly variable with weather and food conditions and because males usually emerge from dens only two or three weeks earlier than females.

Comments specific to the adequacy of each state's individual regulations and plans, the MOA, and the Conservation Strategy appear in Issues 66.6, 66.7, 66.8, 66.9, and 66.95.

Response 66.55:

Issue 68.1: Many commenters stated that all state regulations (not just management plans) should require hunters to carry bear spray and should impose heavy fines or the threat of license revocation for those that fail to do so. Commenters noted that hunters are only required to carry bear spray in Grand Teton National Park and John D. Rockefeller Jr. Memorial Parkway (though the Governor of Wyoming noted that since the John D. Rockefeller Memorial Parkway is not a National Park, the bear spray requirement only applies in Grand Teton National Park and we should explicitly note this distinction). In explaining the efficacy of bear spray, one commenter cited research from Smith et al. (2006), which found that 92% of bear attacks end when hunters use bear spray and 98% of those that carry bear spray left encounters with bears unscathed; conversely, when hunters use firearms for protection, they are injured 56% of the time and 61% of these encounters result in lethal removal of the offending bear (Smith et al. 2012).

Response 68.1:

Issue 68.2: Commenters opined that our requirements for state regulations (and the regulations themselves) do not adequately regulate manner of take (e.g., baiting, hounds, trapping, stalking) and allow for "unsportsmanlike" methods.

Commenters asked there to be a ban on all bear baiting (both black bears and grizzly bears) in any area where grizzlies could be present (not just inside the PCA) for delisting to proceed. Commenters expressed that bait stations pose threats to human safety, increase the risk of mistaken identity kills, and "lure [bears] outside Park boundaries." This commenter noted that Montana's proposed regulations prohibit baiting grizzlies but Wyoming and Idaho fail to ban baiting of bears in their regulations. One commenter requested Wyoming's Chapter 67 grizzly bear regulations include specific limitations on bait sites from Wyoming's Chapter 3 (section 7)

regulations. Conversely, one commenter suggested that the Service should “defer to state wildlife population managers regarding the practice of baiting.”

Commenters also noted the need for bans in all three states (both within and outside the PCA) on the use of hounds for grizzly bear hunting and on bear trapping before delisting can proceed. Commenters worried that hunting with dogs leads to conflicts between dogs and grizzlies and can attract grizzlies to people. Commenters also expressed that trapping endangers humans and can cause severe damage to bears; this commenter asked if there is an Animal Care and Use Committee that has recently reviewed trapping in the GYE. The Governor of Wyoming argued that a restriction on bear trapping should not be a foundation for grizzly delisting; he requested we remove the language in the rule that discusses bear trapping.

Response 68.2:

Issue 66.9: While some commenters thought the Tri-State Memorandum of Agreement Regarding the Management and Allocation of Discretionary Mortality of Grizzly Bears in the Greater Yellowstone Ecosystem (Tri-State MOA) was sufficient to ensure the GYE population continues to meet management objectives, many commenters expressed concerns about its adequacy. Some commenters shared specific reasons they thought the Tri-State MOA could not be considered a regulatory mechanism in our Factor D analysis, including: (1) any party to the MOA can terminate the agreement with 180 days’ notice; (2) there are no penalties for parties that do not follow the Tri-State MOA’s provisions; and (3) there is no mechanism for private citizens or the federal government to hold parties to the Tri-State MOA accountable. Commenters also worried about the many inconsistencies between the Tri-State MOA and other Service or state documents, including, but not limited to: (1) the fact that the Tri-State MOA commits to consistency with the 2007 Conservation Strategy but not the revised 2016 Conservation Strategy, the final rule, and all other current delisting documents; and (2) Idaho’s commission approved an earlier version of the Tri-State MOA that was different from the version that Montana signed.

Many commenters expressed concerns about the discussion of population objectives and mortality limits in the Tri-State MOA, including: (1) the Tri-State MOA misuses the research of Miller and Waits (2003) and establishes a population objective of 500 bears (though it is unclear

whether this objective is for the PCA or the DMA), thereby allowing states to depress the population to 500 individuals; (2) the mortality limits in the Tri-State MOA do not match the mortality limits in the proposed rule; (3) the Tri-State MOA did not discuss undocumented, unreported, or total mortality and how these numbers would affect calculation of discretionary mortality; (4) the Tri-State MOA should contain the example discretionary mortality calculation from the Proposed Rule; (5) the Tri-State MOA, and state regulations, say the states will only use background mortality rates from the previous year to inform discretionary mortality whereas the Proposed Rule stated they would use background mortality rates from the preceding four years; (6) there is no mechanism in the Tri-State MOA that allows excessive non-discretionary mortality to moderate allowable discretionary mortality; and (7) the Tri-State MOA does not address the impacts of hunting on population generation interval.

Commenters also weighed in on the provisions regarding allocation of discretionary mortality in the Tri-State MOA. Commenters claimed that the parties to the Tri-State MOA should not be allowed to adjust the allocations of discretionary mortality because such changes could create “population sinks” in key connectivity zones. Many commenters also expressed that the National Park Service (NPS) should be an active participant in the annual mortality decision-making process and should be allocated a percentage of the discretionary mortality based on the percentage of land under their management within the DMA. A few commenters described the potential impacts of the lack of NPS allocation, suggesting it will cause disproportionately high mortality along park boundaries, decreasing bear populations outside the parks. Under this post-delisting management, grizzly bears of both sexes residing in national parks will be killed at a lower rate compared with bears residing outside those protected areas; this difference in mortality rate will be greatest among independent males. This is because, without giving the NPS a proportional share of grizzly bear discretionary mortality, male bears inside the park will die at a rate of approximately 5 percent each year, while male bears outside park boundaries could experience 15 to 22 percent mortality (depending on the current population estimate), creating a population sink. This overharvest outside the Parks would be largely sustained by male bears that emigrate from the Parks. The consequence is that the number of independent males outside the Parks will decline dramatically. In contrast, the ecosystem-wide cohort of reproductive females will remain relatively intact, thus continuing to produce artificially robust estimates of total population size (since population estimates are based

on the Chao2 technique, which is derived from counts of females with cubs-of-the-year, and not on any direct measure of the numbers of independent males. As the decline in the subpopulation of independent males occurs over a number of years, at no point are population or mortality limits surpassed, thus *not* triggering a review that would lead to more conservative management, entirely as an artifact of the proposed monitoring system.

One commenter opined that the Tri-State MOA did not contain sufficient explanation of how the states will support continued monitoring of bear populations (e.g., commitment to maintain a certain number of collared female bears). This commenter also worried that the task of monitoring the populations could not be accomplished by the states alone.

Response 66.9:

Issue 67: Commenters expressed particular concern about the states' financial and administrative capacity to manage and monitor grizzly bears after delisting. Concerns about adequacy of state funding included: (1) a reminder that any federal financial support would run dry after five years post-delisting; (2) confusion as to where states would find funds to make up this difference; (3) claims that delisting would cost an additional \$1.2 million per year on top of current expenditures on recovery and would preclude states from pursuing certain funding opportunities (like Section 6 grants); (4) claims that funds generated from the sale of grizzly bear hunting licenses will not provide adequate funding to the States to manage grizzly bears; and (5) worries that the Hicks Bill would relieve Wyoming of any obligation to pay to protect bears from illegal mortality. Commenters also provided suggestions for ways to enhance confidence in state financial capacity for grizzly bear conservation, including: (1) state plans should clearly identify how they will fund grizzly bear monitoring, conservation, conflict management, and connectivity facilitation; (2) the federal government should provide sufficient financial support for state field biologists, state management of grizzly bears, and programs to minimize bear conflict; (3) decision-makers should develop a means to share tourism dollars with state wildlife managers; and (4) managers should revive the idea of an endowment fund for the Conservation Strategy and post-delisting management, which had been part of recovery and delisting discussions for more than 20 years. Some commenters expressed concern that the States do not have sufficient staff to respond to hunting violations in a timely manner, close hunting seasons immediately

upon meeting mortality thresholds, enforce adequate penalties on poachers, and conduct research and monitoring on grizzlies to ensure effective adaptive management.