

Montana Fish, Wildlife & Parks
Parks and Outdoor Recreation Division
Fishing Access Site Annual Rule
Fees and Rules for Fishing Access Sites

Proposed Rule for 2024

April 17, 2024

The Parks and Outdoor Recreation Division is proposing that the Fish and Wildlife Commission adopt the 2024 Fishing Access Site Annual Rule (this document) with no changes from the 2023 rule, other than “clean up” to be consistent with other rules and removing duplicated language that is contained in either statute or the newly approved consolidated Public Use Rules, ARM 12.12.101, *et. seq.* that apply to all FWP recreational lands including FASes. The commission is scheduled to make a final decision on April 17, 2024.



FISHING ACCESS SITE USE FEE TABLE

| FEE CATEGORY: | FEE AMOUNT: |
|--|---|
| CAMPING | |
| Montana fishing license holders | \$12.00 per night |
| Montana fishing license holders (MT residents: 62 years or older, disabled, or a veteran) | \$5.00 per night |
| Non-Montana fishing license holders | \$18.00 per night |
| Non-Montana fishing license holders (MT residents: 62 years or older, disabled, or a veteran) | \$7.50 per night |
| SPECIAL USE PERMITS (GROUPS, EVENTS, ACTIVITIES INVOLVING MORE THAN 30 PEOPLE) | |
| Permit | \$3 per person per day or \$5 per vehicle per day |
| FACILITY RENTALS | |
| Rental | \$75 per day |
| Deposit | \$100 |
| SPECIAL RECREATION PERMITS (BLACKFOOT AND MADISON RIVERS) | |
| Commercial Use | Fee amount subject to FWP Commercial Use Permit Fee Rule |
| Organized Groups | \$3 per person per day, or \$100, whichever amount is greater |
| Competitive Events | \$3 per person per day, or \$100, whichever amount is greater |
| COMMERCIAL USE PERMITS | |
| Permit | Fee amount subject to FWP Commercial Use Permit Fee Rule |

Fishing Access Site Rule (2024)

APPLICABILITY OF RULE & SPECIAL RULES/REGULATIONS

- A. This annual rule applies to non-commercial use of fishing access sites, organized groups, and competitive events on the Blackfoot and Madison rivers, and commercial use of the Alberton Gorge (all other commercial use of fishing access sites are governed by ARM 12.14.101 through 12.14.170,).
- B. The rule will be in effect for one year when approved by the Fish and Wildlife Commission. The Fish and Wildlife Commission may amend the rule at any time during this period.
- C. Fees shall be prominently signed and posted where applicable, ARM 12.12.103.
- D. The department's public use rules, ARM 12.12.101 through 12.12.140, unless otherwise posted or noted in this fee rule, shall apply to use of fishing access sites.
- E. The commission delegates to the director or the director's designee the authority to post special rules, consistent with existing department or commission authority, related to public use, health, safety, welfare, and resource protection per 23-1-106, MCA 87-1-301 and 87-6-303, MCA.

LEGAL AUTHORITY

- A. The Fish and Wildlife Commission has the authority to adopt these rules as annual or biennial, not subject to the specific requirements of the Montana Administrative Procedures Act per section 2-4-102(11)(b)(iv), MCA.
- B. Sections 23-1-105, 23-1-106, 61-3-321, 87-1-303, MCA, and 12.12.105, ARM, authorize the collection of fees and charges for use of Montana fishing access sites, and rulemaking for the sites' use, occupancy, and protection.

DEFINITIONS

- A. "Camp" means to occupy a campsite overnight at a fishing access site.
- B. "Campsite" means any area officially authorized to allow camping. This includes designated, numbered sites, and dispersed non-numbered sites.
- C. "Commercial use" is defined as per ARM 12.14.101(3).
- D. "Commission" means Fish and Wildlife Commission.
- E. "Department" means Montana Department of Fish, Wildlife and Parks.
- F. "Dispersed camping" means camping that occurs in areas that are not individually signed or numbered.
- G. "Educational group" means an organized group that is officially recognized as an educational or scientific institution by a federal, state, or local government entity. Documentation of this recognition must be on institutional letterhead and include a signature by the head of the institution/department and documentation of official educational or scientific tax exemption as granted by the Internal Revenue Service.
- H. "Fishing access site" means lands that are under the control, administration, and jurisdiction of the department's Parks and Outdoor Recreation Division and were purchased for the primary purpose of providing fishing access to streams, rivers, lakes, reservoirs, ponds, and other water bodies.

- I. "Nonprofit organization" means an organization that is officially registered as a 501(c) tax exempt organization.
- J. "Resident" means a resident of Montana as defined in 87-2-102, MCA.

PENALTIES

- A. No person shall use campgrounds or facilities, or otherwise participate in activities for which a fee has been established without first paying the required fee. Any violation of this provision is punishable by a fine not to exceed \$500 per ~~23-1-106, MCA, and 12-8-213, ARM~~ **87-1-301, 87-6-201, MCA and 12.12.105, ARM.**
- B. Violation of fee requirements, administrative rules, or state laws may result in immediate expulsion from the area in addition to other enforcement actions.

SEVERABILITY CLAUSE

- A. If a part of this fee rule is invalid, all valid parts are severable from the invalid part and shall remain in effect. If a part of this fee rule is invalid in one or more of its applications, the part remains in effect in all valid applications severable from the invalid applications.

CAMPING AT FISHING ACCESS SITES

- A. There are no daily entrance fees at fishing access sites. The funding sources for operation and maintenance of fishing access sites include revenue from the sale of fishing licenses, motor vehicle registration fees, permit fees, conservation license fees, and federal funding sources.
- B. Fishing access site camping seasons vary based upon specific site conditions, location, and other factors. Some sites may be closed during the winter season or other portions of the year (contact a department regional office for details).
- C. A person must have a valid Montana fishing license to qualify for the reduced (lower) camping fee at fishing access sites.
- D. 23-1-105(2), MCA, provides that an overnight camping fee will be discounted 50% for a campsite rented by a Montana resident who is:
 - i. 62 years of age or older;
 - ii. certified as disabled in accordance with rules adopted by the department; or
 - iii. a veteran of the armed forces.
- E. All camping fees include the 7% State of Montana accommodation tax as per 15-65-111 and 15-68-102, MCA.

GROUP USE

- A. All groups, events, or activities that include more than 30 people must secure a special use permit (ARM 12.12.119) prior to using a fishing access site.
- B. Groups, events, or activities that meet the definition of commercial use are governed by the department's commercial use rules (ARM 12.14.101 through 12.14.170 and the Commercial Use Permit Fee Rule).
- C. Special use permit applications for FASes should be submitted to the appropriate regional office a

minimum of seven days prior to the proposed date of use.

- D. The department may assess a fee for group use at fishing access sites. The fee must be submitted in advance with the permit application unless otherwise specified by the department.
- E. The department may adjust the special use permit fee on a case-by-case basis for educational groups when the following conditions are met:
 - i. the group is from a bona fide institution that meets the definition of an educational group;
 - ii. the group provides a written explanation of the educational purpose of the visit; and
 - iii. the use is not primarily for recreational purposes.
- F. The department may adjust the group use permit fee on a case-by-case basis when the group or event:
 - i. donates proceeds or services to the management or improvement of fishing access sites, including the maintenance, management, or the improvement or development of facilities;
 - ii. donates proceeds from the event or activity to a nonprofit organization or charitable cause; or
 - iii. is organized primarily for children under the age of thirteen.
- G. A cleaning/security deposit may be required in advance for special use permits. The department may waive the deposit requirement for groups that have previously reserved a facility and demonstrated satisfactory cleanup and/or restoration of resources and facilities and compliance with the permit terms and conditions.

FACILITY RENTALS

- A. An individual or group may reserve a shelter or other facility subject to availability and approval by staff. The department may deny the reservation request or stipulate the conditions of use based on the nature of the proposed use and the regulations and management objectives in place at the fishing access site where the use would occur.
- B. There is a rental fee for use of shelters and other facilities. The fee must be paid prior to use of the facility.
- C. The department may adjust the rental fee on a case-by-case basis for educational groups or an individual or group that donates money or services to the management or improvement of fishing access sites.
- D. A cleaning/security deposit may be required and must be submitted in advance with the facility rental fee. The department shall assess the cleanup and/or restoration of resources and facilities and if conditions are satisfactory the department shall refund the deposit.

SPECIAL RECREATION PERMITS

- A. The department, in conjunction with the Bureau of Land Management (BLM), requires a Special Recreation Permit for commercial use, competitive events, and organized group activities at department and BLM access sites along the Blackfoot River and Madison River.
 - i. "Commercial use" is defined as per ARM 12.14.101(3).
 - ii. "Competitive event" means any organized, sanctioned, or structured use, event, or activity on lands owned or managed by the department or related waters in which two or more contestants

compete, the participants register, enter, or complete an application for the event, and/or a predetermined course or area is designated.

iii. "Organized group activity" means a structured, ordered, consolidated, or scheduled event on, or occupation of, lands owned or managed by the department or related waters that is not commercial or competitive.

B. The department shall issue Special Recreation Permits pursuant to ARM 12.11.6501 through 12.11.6575, the department's Commercial Use Administrative Rules (ARM 12.14.101 through 12.14.170), and the Commercial Use Permit Fee Rule.

Blackfoot River Special Regulations:

The maximum sizes for organized and commercial groups on the Blackfoot River are as follows:

| River Reach | Organized Groups Maximum size, (individuals) | Commercial Groups Maximum size, (individuals) |
|--|--|---|
| 1. Headwaters to the Mineral Hill area | 0 | 0 floating, 3 wading |
| 2. Mineral Hill area to North Fork confluence | 12 | 12 |
| 3. North Fork confluence (or Harry Morgan FAS) to Russell Gates FAS | 21 | 21 |
| 4. Russell Gates FAS to Roundup FAS | 30 (40 May 1 - June 15) | 30 (40 May 1 - June 15) |
| 5. Roundup FAS to Johnsrud Park FAS* | 30 (40 May 1 - June 15) | 30 (40 May 1 - June 15) |
| 6. Johnsrud Park FAS to Bonner | Based upon site capacity | Based upon site capacity |
| 7. North Fork of Blackfoot River from the USFS boundary to Harry Morgan FAS. | 0 | 12 |

*At Whitaker Bridge FAS, the maximum commercial group size will be 25 individuals from June 15 through Labor Day.

A. Exceptions to the maximum group sizes on the Blackfoot River are as follows:

- i. river reaches four (4) and five (5) include a whitewater season (May 1 through June 15) with special group sizes to accommodate the traditional spring runoff and whitewater rafting season;
- ii. the regional supervisor or designee may adjust this time period annually to address seasonal peak spring flow conditions.

B. A person may apply for a Blackfoot River special recreation permit and request to exceed the maximum group size limit. In such cases, the department may conduct an environmental assessment to assess the predicted impacts of the request. Such requests may be subject to cost recovery.

C. "Site capacity" on the Blackfoot River is the number of people each site can accommodate without significant impacts to the site resources or social experience. It is the maximum use level for all recreational use, including the combined use of a recreation site by the general public and any permitted recreational uses (commercial, competitive, and organized groups). Each permit in this river reach shall be determined on a case-by basis.

D. The impacts and acceptable size limits for competitive events on the Blackfoot River shall be assessed on site-specific capacities and suitability. The permitted group size for a competitive event may be smaller than the maximum group size for organized and commercial use based on the

cumulative impacts of all anticipated use. Special recreation permits do not grant exclusive use of a recreation site to any permitted group.

- E. The following criteria shall be used to determine the maximum group size for a proposed competitive event on the Blackfoot River:
 - i. whether the competitive events are consistent with the management objectives outlined in the Blackfoot River Recreation Management Plan;
 - ii. whether the combination of the anticipated general public use and the special recreation permit use is expected to be within the site capacity limits;
 - iii. whether the site is capable of accommodating the proposed number of people and vehicles without damage or degradation to the facilities or resources;
 - iv. whether the proposed activity and group size is compatible with the site facilities;
 - v. the timing and duration of the proposed event; and
 - vi. benefits to the public and/or river resources.
- F. If the proposed event is to occur in critical native fish recovery areas, the activity must be consistent with current bull trout recovery considerations.

COMMERCIAL USE PERMITS

- A. Commercial use permit requirements and fees are identified in the department's Commercial Use Administrative Rules (ARM 12.14.101 through 12.14.170), and the Commercial Use Permit Fee Rule. Exception: See below for special regulations on commercial use on the Alberton Gorge.

Alberton Gorge Special Regulations:

- A. Alberton Gorge shall be defined as the region between and including Cyr fishing access site to Tarkio fishing access site along the Clark Fork River.
- B. Commercial use, as defined in ARM 12.14.101(3), within the Gorge is limited to commercial use that demonstrated "Historical Commercial Use" of the Gorge prior to January 1, 1998, by registering with the department by March 15, 1999. Those who failed to demonstrate proof of prior commercial use by that date are not considered historical commercial users and therefore are prohibited from conducting commercial use within the Gorge.
- C. In accordance with ARM 12.14.120(1), a restricted use permit is required in advance to conduct commercial use within the Alberton Gorge.
- D. The department's Commercial Use Administrative Rules (ARM 12.14.101 through ARM 12.14.170) and Commercial Use Permit Fee Rule apply to commercial use within Alberton Gorge.