

BEFORE THE FISH AND WILDLIFE COMMISSION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARINGS ON  
ARM 12.11.610 and adoption of NEW ) PROPOSED AMENDMENT AND  
RULES I and II pertaining to ) ADOPTION  
recreational use on the Bitterroot )  
River )

TO: All Concerned Persons

1. On October 2, 2017, at 6:00 p.m., the Fish and Wildlife Commission (commission) will hold a public hearing at the Fish, Wildlife and Parks Region 2 Office, 3201 Spurgin Road, Missoula, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On October 3, 2017, at 6:00 p.m., the commission will hold a public hearing at the Bitterroot National Forest Supervisor's Office, 1801 North First Street, Hamilton, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On October 10, 2017, at 6:00 p.m., the commission will hold a public hearing at Fish, Wildlife and Parks Butte Area Resource Office, 1820 Meadowlark Lane, Butte, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than September 22, 2017, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-9785; or e-mail [jesssnyder@mt.gov](mailto:jesssnyder@mt.gov).

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

12.11.610 BITTERROOT RIVER (1) remains the same.  
(2) Floating of any kind, including the use of a tube, raft, vessel, or similar device, is prohibited on Fridays from July 1 through September 15 from Painted Rocks Dam to Applebury Forest Service Site.

AUTH: ~~23-1-106~~, 87-1-303, MCA  
IMP: ~~23-1-106~~, 87-1-303, MCA

4. The rules as proposed to be adopted provide as follows:

NEW RULE I BITTERROOT RIVER COMMERCIAL USE PERMIT (1) Any commercial fishing and floating operators are prohibited to operate without a permit between Painted Rocks Dam and Wally Crawford Fishing Access Site.

(2) The number of permits available will be established through the following one-time process:

(a) in order to be eligible for a permit to operate, commercial operators with records of historic use may report their use of the Bitterroot River between Painted Rocks Dam and Wally Crawford Fishing Access Site between January 1, 2014 and December 31, 2016, by March 15, 2018 as prescribed by the department;

(b) the department will only consider documented and historic use that is timely reported; and

(c) the department will notify commercial operators with documented usage, determined at the sole discretion of the department, whether they will receive a permit.

(3) The number of permits distributed in the one-time process in 2018 will establish the annual cap of permits available for this portion of the Bitterroot River for future use until otherwise determined by the department.

(4) Permittees must submit an annual report, as prescribed by the department, including:

(a) dates of river use;

(b) number of clients;

(c) stretch of river used;

(d) access points used; and

(e) and any other information the department deems necessary.

(5) Permittees who do not submit an annual report completely and timely will have their permit revoked.

(6) A permit is considered abandoned after three consecutive years of no activity reported on the annual report.

(7) Revoked and abandoned permits will be made available to all commercial fishing and floating operators via a random lottery to be conducted by the department.

AUTH: 87-1-303, MCA

IMP: 87-1-303, MCA

NEW RULE II BITTERROOT RIVER COMMERCIAL USE PERMIT RESTRICTIONS (1) Bitterroot River commercial use permit holders are restricted to two floats per section per day in the following areas:

(a) Painted Rocks Dam to Applebury Forest Service Site;

(b) Applebury Forest Service Site to Trapper Creek Job Corp Site;

(c) Trapper Creek Job Corp Site to Hannon Memorial Fishing Access Site;

and

(d) Hannon Memorial Fishing Access Site to Wally Crawford Fishing Access Site.

(2) Commercial fishing and floating operators are prohibited from operating from June 1 to September 15 as follows:

- (a) between Painted Rocks Dam and Applebury Forest Service Site on Fridays;
- (b) between Applebury Forest Service Site and Trapper Creek Job Corp Site on Saturdays;
- (c) between Trapper Creek Job Corp Site to Hannon Memorial Fishing Access Site on Sundays; and
- (d) between Hannon Memorial Fishing Access Site to Wally Crawford Fishing Access Site on Mondays.

AUTH: 87-1-303, MCA

IMP: 87-1-303, MCA

REASON: The popularity of the Bitterroot River is contributing to growing concern over the quality of the angling and recreational experience of those waters. For a number of years the Department of Fish, Wildlife and Parks (department) has received a large volume of letters and emails from people concerned about the overall amount of angling pressure, level of commercial use, congestion on the water and at access sites, and how this use is affecting the quality of their experience. To substantiate these concerns, the department conducted surveys to assess people's perceptions about conditions on these rivers, and whether conditions have displaced anglers to fishing on other rivers as an alternative.

Based on the public's concerns and the survey results, the department concluded that there was sufficient reason to initiate a river recreation management process pursuant to the river recreation management rules, ARM 12.11.401 through 12.11.455. A citizen advisory council (CAC) was appointed by the department to develop recommendations for how best to manage recreation on this section of river. The CAC considered all the available informal and formal social and biological information related to use of these rivers. They developed a set of objectives for evaluating various means of managing recreation and addressing social conflicts and developed recommendations that represent their own interests and those of others affected by river recreation management. After consideration of various alternative methods to managing recreation, the CAC developed one preferred alternative. On August 10, 2017, the commission approved proposed rule language and a proposed management plan based on the CAC's recommendations.

In addition to the proposed rule language, the department has published a draft environmental assessment for public input evaluating the environmental impacts of the proposed rule language in compliance with the Montana Environmental Policy Act (MEPA). The MEPA and rulemaking processes are being done concurrently.

5. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Bitterroot River Recreation, Department of Fish, Wildlife and Parks, 3201 Spurgin Road, Missoula, MT, 59804; or e-mail shrose@mt.gov, and must be received no later than October 13, 2017.

6. Jessica Snyder or another hearing officer appointed by the department has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and adoption of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Rebecca Dockter  
Rebecca Dockter  
Rule Reviewer  
Department of Fish, Wildlife and Parks

/s/ Dan Vermillion  
Dan Vermillion  
Chair  
Fish and Wildlife Commission

Certified to the Secretary of State August 28, 2017.