



# MONTANA FISH AND WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

THE **OUTSIDE** IS IN US ALL.

**Meeting Date:** December 5, 2019

**Agenda Item:** Petition for amendments to ARM 12.11.330, 12.11.610, and 12.11.620 to exempt hovercraft from the definition of a vessel and to exempt hovercraft from the horsepower restrictions on the Bitterroot and Clark Fork Rivers

**Action Needed:** Final

**Time Needed on Agenda for this Presentation:** 15 min

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## **Background:**

On October 28, 2019, the department received a petition submitted by Jim Crews to amend ARM 12.11.330 to exclude hovercraft from the definition of a vessel, and to amend ARM rules 12.11.610 and 12.11.620 to exclude hovercraft from the 20 horsepower restrictions on the Clark Fork and Bitterroot Rivers. ARMs 12.11.620 and 12.11.610 limit the use of motorized vessels on portions of the Clark Fork River and its tributaries and the Bitterroot River to 20 horsepower or less and imposes seasonal restrictions on their usage.

During 2011, the Clark Fork and Bitterroot Rivers underwent a collaborative river recreation rule making process in R2. These rules were adopted after a significant public process that included two comment periods and over 600 comments. Nearly three-quarters (73%) of the comments supported restrictions on motorized use. Safety of fast-moving boats in the proximity of other users and noise were often cited. Personal Watercraft (i.e., jet skis) and jet boats were of particular concern because they can access shallow water areas at high speeds that otherwise preclude fast moving vessels. Where horsepower restrictions were adopted, 20 hp was chosen because it is the largest, portable motor horsepower, thus reducing speed and noise while providing fall hunting opportunities and access to lands.

## **Public Involvement Process & Results:**

Public comment has not been collected on the petition. The Commission will take public comment at the meeting. If the Commission opts to initiate rulemaking, the public will have the opportunity to provide comments after the proposed rule language is published in the Montana Register pursuant to the administrative rulemaking procedures.

## **Alternatives and Analysis:**

The commission may initiate rulemaking on the petition. Should this occur, public comment will be collected during the rulemaking process.

The commission may deny the petition. Should this occur the rules will remain as they currently are.

## **Agency Recommendation & Rationale**

The department recommends the commission deny the petition. MCA § 23-2-505(7)(a) defines a motorboat as a vessel propelled by any machinery and hovercrafts fall under this definition.



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To provide an exception for one watercraft would be contrary to the statutory definition and would encourage other similarly situated to do the same.

In 2011, the department undertook an extensive river recreation planning process that included heavy public involvement. The conclusion of this process resulted in the current regulations on the Clark Fork, its tributaries and the Bitterroot. These regulations have extensive public support in Region 2. These regulations are no more restrictive towards hovercraft than they are any other vessel rated at over 20 horsepower. Providing an exception for one would encourage others.

**Proposed Motion:**

I move the Fish and Wildlife Commission deny the petition.