



**MONTANA
ADMINISTRATIVE
REGISTER**



FISH AND WILDLIFE COMMISSION

NOTICE OF ADOPTION

MAR NOTICE NO. 2026-80.3

Summary

Proposed amendment to motorized watercraft restrictions on the Bitterroot River in Ravalli County.

Previous Notice(s) and Hearing Information

On May 22, 2026, the Fish and Wildlife Commission published MAR Notice No. 2026-80.1 regarding a public hearing on the proposed changes to the agency's rules in the 2026 Montana Administrative Register, Issue No. 10. The public hearing was held on June 15, 2026, at 10:00 a.m., and written comments were accepted through July 17, 2026. One individual provided comments at the public hearing and several other individuals and organizations submitted written comments.

Final Rulemaking Action – Effective October 31, 2026

AMEND WITH CHANGES

The agency has amended the following rules with the following changes from the original proposal, stricken matter interlined, new matter underlined:

12.11.610 BITTERROOT RIVER

- (1) The Bitterroot River is closed to the use of any motorized watercraft except any motorized watercraft powered by 20 horsepower or less are permitted from October 1 through January 31 from the headwaters of the Bitterroot River to the confluence with the Clark Fork River.

- (2) ~~All tributaries and natural streams, sloughs, and channels flowing into the Bitterroot River between the Woodside Bridge Fishing Access Site and the John and Nancy Owen Fishing Access Site are closed to the use of any motorized watercraft. The Mitchell Slough channel, including its east, west, and middle sub-channels and all connected tributaries, is closed year-round to the use of any motorized watercraft.~~
- (3) 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.

Authorizing statute(s): 87-1-303, MCA

Implementing statute(s): 87-1-303, MCA

Statement of Reasons

Adoption Between October 1, 2026, and the start of the 2027 Legislative Session, Mont. Code Ann. § 2-4-305(11)(c):

The Montana Fish and Wildlife Commission (the “Commission”) was unable to adopt this rule for implementation prior to October 1, 2026, due to the public notice and participation requirements under Article II, section 8 of the Montana Constitution and the Montana Administrative Procedure Act (“MAPA”), as well as the Commission’s regular every-other-month meeting schedule and the Secretary of State’s publication calendar for the Montana Administrative Register (“MAR”).

The Commission voted to initiate rulemaking on February 16, 2026. On May 22, 2026, the Commission published the proposal notice to amend ARM 12.11.610 in Issue 10 of the 2026 MAR. A public hearing was held on June 15, 2026, and the written comment period remained open until July 17, 2026, in compliance with MAPA timelines for notice, hearing, and written comments. The Commission then added consideration of the proposed rule amendment to the agenda for its October 2026 meeting, consistent with public meeting notice requirements and the Commission’s established meeting schedule. Until the Commission met on October 15, 2026, it lacked the information necessary to complete consideration of the proposed rule amendment and the public comment received prior to the statutory deadline in Mont. Code Ann. § 2-4-305(11).

Public Comment and Response:

The Commission considered the comments and testimony received. Of the 11 comments received (one oral, 10 written), seven comments expressed support for adopting the proposed rule, three comments did not clearly take a position, and one comment requested that the Commission not adopt the proposed rule. Six comments requested that the Commission revise the language of the proposed rule.

A summary of the substantive comments received and the Commission's responses are as follows:

Comment 1: Multiple commenters expressed concerns that the use of motorized watercraft on Mitchell Slough negatively affects fish, wildlife, and associated habitat, and expressed support for the proposed rule.

Response 1: The Commission thanks these commenters for their support, comments, and participation in the rulemaking process. These comments do not require the Commission to accept or reject the proposed rule on their substance, but the Commission believes the proposed rule addresses the fish, wildlife, and habitat concerns raised by these commenters.

Comment 2: Multiple commenters expressed concerns that the use of motorized watercraft on the narrow and winding channels of Mitchell Slough is dangerous for other recreational users and expressed support for the proposed rule.

Response 2: The Commission thanks these commenters for their support, comments, and participation in the rulemaking process. These comments do not require the Commission to accept or reject the proposed rule on their substance, but the Commission believes the proposed rule addresses the public safety concerns raised by these commenters.

Comment 3: A few commenters expressed concerns about maintaining opportunities for quiet, pastoral recreation on streams, tributaries, sloughs, and on some side channels of the Bitterroot River and expressed support for the proposed rule.

Response 3: The Commission thanks these commenters for their support, comments, and participation in the rulemaking process. These comments do not require the Commission to accept or reject the proposed rule on their substance, but the Commission believes the proposed rule addresses the recreation concerns raised by these commenters.

Comment 4: Several commenters expressed concerns about the general environmental impacts of motorized watercraft and expressed support for the proposed rule.

Response 4: The Commission thanks these commenters for their support, comments, and participation in the rulemaking process. These comments do not require the Commission to accept or reject the proposed rule on their substance, but the Commission believes the proposed rule addresses the environmental concerns raised by these commenters.

Comment 5: One commenter expressed concerns about future technological advancements in motorized recreation and expressed support for the proposed rule.

Response 5: The Commission thanks this commenter for their support, comments, and participation in the rulemaking process. This comment does not require the Commission to accept or reject the proposed rule on its substance, but the Commission believes the proposed rule addresses the concerns raised by this commenter. The Commission may propose future amendments to this rule if technological advancements materially affect implementation or enforcement.

Comment 6: One commenter expressed support for the proposed rule and suggested that the rule should be made effective immediately upon adoption by the Commission.

Response 6: The Commission thanks this commenter for their support, comments, and participation in the rulemaking process. Pursuant to Mont. Code Ann. § 2-4-306(4), administrative rules become effective the day after publication in the Montana Administrative Register unless a specific statutory exception applies. Because the proposed rule is neither a temporary rule nor an emergency rule, it cannot be made effective prior to publication in the Montana Administrative Register.

Comment 7: Multiple commenters expressed concern that the language of the proposed rule is too broad and may inadvertently prohibit the use of motorized watercraft on unintended water bodies. Many of these comments suggested that the proposed rule should refer specifically to Mitchell Slough and the related channels and tributaries that the proposed rule is intended to cover.

Response 7: The Commission thanks these commenters for their comments and their participation in the rulemaking process. Upon consideration of these comments, the Commission has revised the language of the rule as proposed to refer specifically to the Mitchell Slough channel, including its east, west, and middle sub-channels and all connected tributaries.

Comment 8: One commenter indicated that they were sympathetic to the stated goal of the proposed rule, but requested additional consideration of the depth and breadth of the proposed rule to ensure that the resulting rule is not too narrow or too broad.

Response 8: The Commission thanks this commenter for their comments and their participation in the rulemaking process. Upon consideration of this and other comments, the Commission has revised the language of the rule as proposed to refer specifically to the Mitchell Slough channel and connected tributaries, where safety and natural resource issues have been identified by commenters and FWP staff. Additional consideration of whether to adopt, further amend, or abandon the rulemaking will occur at the Commission meeting where adoption of the rule is considered.

Comment 9: One commenter proposed that in order to help the public identify what tributaries of the Bitterroot River the proposed rule addresses, the Commission could restrict all motorized watercraft year-round on the Bitterroot River and tributaries upstream of the John and Nancy Owen Fishing Access Site at Stevensville and continue to allow motorized watercraft from October 1 to January 31 on the mainstem of the Bitterroot River downstream of this point.

Response 9: The Commission thanks this commenter for their comments and participation in the rulemaking process. The Commission acknowledges that additional clarity regarding which waterbodies are included in the closure would be helpful for the public. In light of this concern, the Commission has revised the language of the rule to refer specifically to the Mitchell Slough channel and connected tributaries, where safety and natural resource issues have been identified by commenters and FWP staff. However, the Commission declines to adopt the suggested amendment in favor of more targeted and enforceable language to describe the area to be closed.

Comment 10: One commenter indicated that waterfowl hunters use both the main and side channels of the Bitterroot River to access areas that would otherwise be inaccessible and that the closure of Mitchell Slough and nearby Bitterroot River tributaries to motorized watercraft should be limited so as to avoid completely depriving hunters and anglers of access to these areas.

Response 10: The Commission thanks this commenter for their comments and participation in the rulemaking process. The Commission acknowledges that both the main and side channels of the Bitterroot River are used by waterfowl hunters and that maintaining public access for waterfowl hunting in these areas is important. The Commission has modified the language of the proposed rule to more specifically address the areas where safety and natural resource issues have been identified by commenters and FWP staff.

Comment 11: One commenter indicated that the Bitterroot River has historically been managed to limit the use of motorized watercraft to watercraft with small, propeller-driven motors to minimize disturbance to river ecosystems and adjoining landowners.

Response 11: The Commission thanks this commenter for their comments and participation in the rulemaking process. This comment does not require the Commission to accept or reject the proposed rule on its substance, but the Commission notes that no changes have been proposed or made to the horsepower limitation contained in ARM 12.11.610(1). Under the rule as proposed, motorized watercraft powered by motors of 20 horsepower or less would still be permitted on the main stem of the Bitterroot River, while motorized watercraft of any size and/or power would be prohibited on the Mitchell Slough channel and connected tributaries.

Comment 12: One commenter expressed concerns that if there are safety and/or resource issues associated with motorized watercraft on Mitchell Slough, they would expect similar safety and/or resource issues to exist on other similar stretches of the Bitterroot River.

Response 12: The Commission thanks this commenter for their comments and their participation in the rulemaking process. This comment does not require the Commission to accept or reject the proposed rule on its substance. To the extent similar safety and resource issues exist on other similar stretches of the Bitterroot River, the Commission may consider additional closures through future rulemaking processes.

Comment 13: One commenter requested that the Commission not adopt the proposed rule in light of a forthcoming public petition to close Mitchell Slough to motorized watercraft in a more targeted and enforceable way.

Response 13: The Commission thanks this commenter for their comments and participation in the rulemaking process. The Commission acknowledges that a public petition to close the Mitchell Slough channel to motorized watercraft may be forthcoming, but does not believe that starting the rulemaking process over again is necessary. The Commission has modified the language of the proposed rule to more specifically address the areas where safety and natural resource issues have been identified by commenters and FWP staff. The Commission believes the modified language of the proposed rule is more targeted and will aid with enforcement. Accordingly, the Commission declines to retract the proposed rule as requested by this commenter.

Comment 14: One commenter suggested that increased signage of the mainstem of the Bitterroot River and of which channels are open or closed to motorized watercraft would be helpful.

Response 14: The Commission thanks this commenter for their comments and their participation in the rulemaking process. This comment does not require the Commission to accept or reject the proposed rule on its substance, but the Commission acknowledges that additional signage would help the public determine where motorized watercraft are prohibited and would support consistent enforcement of the rule, if adopted.

Comment 15: One commenter provided information regarding water depth measurements, channel width measurements, and other channel characteristics recorded in a number of sections of Mitchell Slough. This commenter also provided a link to a YouTube video and indicated that the video is a compilation of seven videos captured by trail cameras that demonstrate what motorized boat traffic on sections of Mitchell Slough looks like.

Response 15: The Commission thanks this commenter for the information and for their participation in the rulemaking process. These comments do not require the Commission to accept or reject the proposed rule on its substance.

Contact

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Rule Reviewer

Jeff Hindoien

Approval

Lesley Robinson
Fish and Wildlife Commission, Chair