



MONTANA FISH AND WILDLIFE COMMISSION FWP PROPOSAL & INFORMATION SHEET

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Meeting Date: October 15, 2026

Agenda Item: Administrative Rulemaking Petition – Surf/Wakeboard Boats – Swan Lake

Action Needed: Decision to Initiate MAPA Rulemaking Process or Decision to Deny Petition

Time Needed on Agenda for this Presentation: 15 minutes

Background: Under § 2-4-315, MCA, an interested person may petition a state agency, board, or commission to request the promulgation, amendment, or repeal of an administrative rule. In February of 2025, the Commission took action to deny a petition submitted by several property owners at Swan Lake that sought to initiate a Montana Administrative Procedures Act (MAPA) rulemaking process concerning wake surfing / wakeboarding activities on the lake. That decision was based, in part, on the Department's advisement that the petition – as structured at that time – proposed changes to statutory provisions that could not be altered through the MAPA rulemaking process.

Department staff have since worked with the property owner group to provide further guidance and clarity on the type of matters that can be considered in a MAPA rulemaking process. The property owners have now submitted a new petition requesting that the Commission initiate a rulemaking process to consider an amendment to the Commission's existing ARM structure for Swan Lake. Under ARM 12.11.3106 and ARM 12.11.115, Swan Lake is presently subject to a controlled no wake speed from shoreline to 200 feet from the shoreline. The petition as presented requests the initiation of a MAPA rulemaking process to consider an amendment to ARM 12.11.3106 that would extend the controlled no wake speed zone to a distance of 500 feet from the shoreline.

Public Involvement Process & Results: This petition was originally placed on the agenda for the Commission's April 16, 2025 meeting, but was withdrawn by the petitioners at that time for consideration at a later Commission meeting. The written public comments that were received at that time are included with any further written public comments that will now be accepted on this matter through September 24, 2026. The Commission will also take public comment at its October 15, 2026 meeting during consideration of this agenda item.

Analysis & Alternatives: Under MAPA, the Commission can either deny the petition or initiate a formal rulemaking process. That process would involve soliciting public comment and holding a public hearing on the proposed amendment, followed by the Commission's decision to adopt or not adopt the proposed amendment. Under § 2-4-315, MCA, a decision to deny the petition or to initiate rulemaking proceedings must be in writing and based on record evidence. The alternatives presented under the statute are as follows:

Alternative A: Approve the petition for rulemaking and initiate the MAPA rulemaking process for consideration of the proposed amendment to ARM 12.11.3106.

Alternative B: Deny the petition for rulemaking. The current status quo would remain in place, which includes a controlled no wake speed restriction on Swan Lake from shoreline to 200 feet from shoreline (ARM 12.11.115) and a controlled no wake speed from its northern outlet to the southern tip of the southernmost island in the outlet channel (ARM 12.11.3106).



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Agency Recommendation & Rationale: The Commission has been given authority by the Legislature to adopt and enforce rules governing the recreational use of public lakes. Any rules adopted by the Commission under that statutory authority [§ 87-1-303(2), MCA]:

“ . . . must be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources in regulating swimming, hunting, fishing, trapping, boating, including but not limited to boating speed regulations, the operation of motor-driven boats, the operation of personal watercraft, the resolution of conflicts between users of motorized and nonmotorized boats, waterskiing, surfboarding . . . ”

The Commission has received similar petitions in the past to restrict wake surfing / wakeboarding activities on both Lake Five and Half-Moon Slough. The Commission directed the formation of citizen advisory / working groups in response to those petitions, with those groups developing and bringing proposed regulation structures back to the Commission for its review. In this particular case, however, the requested ARM amendment is clear and concise, and the Department believes that the MAPA rulemaking process can – in and of itself – serve as an adequate framework for soliciting public input on the proposed amendment if the Commission chooses to initiate that process.

Motion Alternatives:

Alternative A – Approve Petition and Initiate Rulemaking:

Based on the petition's contents and the information presented to the Commission, I move that the Fish and Wildlife Commission grant the petition and initiate administrative rulemaking to amend the no wake speed zone on Swan Lake as presented in the petition.

Alternative B – Deny Petition:

Based on the petition's contents and the information presented to the Commission, I move that the Fish and Wildlife Commission deny the rulemaking petition.