



MONTANA STATE PARKS & RECREATION BOARD FWP PROPOSAL & INFORMATION SHEET

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Meeting Date: June 5, 2024

Agenda Item: Administrative Rulemaking – Existing ARM Correction and new Commercial Use ARM

Action Needed: Authorization to formally initiate MAPA rulemaking process

Time Needed on Agenda for this Presentation: 15 Minutes

Background: At its May 20, 2024, meeting, the Montana State Parks & Recreation Board authorized FWP to initiate the rulemaking process under the Montana Administrative Procedure Act (MAPA) to (1) amend ARM 12.3.650 to correct an unintentional error in a date and (2) adopt a pair of new rules incorporating the commercial outfitter provisions currently contained in the board's 2024-26 biennial rule for the Smith River State Park and River Corridor into the ARM.

The board adopted ARM 12.3.650 last year in response to 2023 legislation authorizing a new bonus point system for private permits and limits on nonresident permits. During the course of that process, however, the department inadvertently referenced a June 15 date in ARM 12.3.650(6) as the end of the peak floating season, when that date should have been July 15 to correspond with the biennial rule provisions. The proposed amendment would correct this.

In addition to that date correction, the department is also proposing that the board adopt a pair of new rules to incorporate the commercial outfitter provisions, currently in Section IX of the biennial rule, into ARM in the same way that the private float trips provisions were incorporated into ARM 12.3.650 last year. The proposed new rules also would add a mechanism for reallocating any commercial launches that might become available because of a commercial use permit revocation, the death of a current permit holder, or the sale/transfer of a permitted business to an ineligible buyer/transferee. These launches initially would be reallocated among the other current permit holders through a random lottery. If any commercial launches remain available after the initial lottery, they would be made available to other licensed outfitters through a second random lottery process.

Public Involvement Process & Results: The board received and considered public comment concerning the department's request for authorization to initiate this MAPA rulemaking process at its May 20, 2024, meeting.

The board will again be asking for and considering public comment on this request to formally initiate the MAPA rulemaking process at its June 5, 2024, meeting. If the board decides to authorize the formal initiation of rulemaking at that time, the department will file the attached *Notice of Public Hearing on Proposed Amendment and Proposed Rules* with the secretary of state, and that will initiate a separate public hearing process where additional public comment will be heard. The MAPA rule notice will be published by the secretary of state and on the FWP website and will contain specific information on the timing and structure of that public hearing process.

As a final step, the department will bring any public comment received through the MAPA process back to the board for its consideration prior to taking any final action to adopt (or not adopt) the MAPA rule later this summer. At that point, there will be yet another opportunity for public comment and participation made available.

Alternatives & Analysis

Alternative A: No Action: The current ARM 12.3.650 would contain an erroneous date for the end of the peak floating season and the commercial outfitter provisions in the biennial rule would not be included the ARM structure in the same way as the board has incorporated the private permit float provisions.



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Alternative B: Proposed Action: Authorize FWP to formally initiate rulemaking to correct the erroneous date in ARM 12.3.650(6) and adopt new rules to include the current commercial outfitter provisions into ARM in the same way as was done with the private permit provisions last year when ARM 12.3.650 was adopted.

Agency Recommendation & Rationale: FWP recommends Alternative B to correct an error, maintain consistency, and ensure all launches are allocated fairly.

Proposed Motion: I move the Montana State Parks & Recreation Board authorize the department to file a *Notice of Public Hearing on Proposed Amendment and Proposed Rules* with the secretary of state and formally initiate the MAPA rulemaking process as requested.