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Ravalli County Commissioners

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February 22, 2019

Dear Interested Person:

The Fish and Wildlife Commission is proposing amendments to the Bitterroot River Commercial Use Permit administrative rules. The proposal notice outlining the proposed amendments is attached for your reference.

The Commission is proposing the amendments to address concerns that were raised with the rules since their adoption in 2018. Concerns include:

- Section lengths are too short at high flows, when float trips easily extend into the next river section. As a result, commercial use is further restricted at high water since it takes multiple floats to conduct one trip.
- Using the "float" restriction encourages congestion at accesses at section boundaries. Using "launches" would allow floating into downstream sections that allow commercial use, so it spreads out use of the access sites.

The department analyzed the 2018 monitoring data and based on the data analysis and feedback provided, the Commission is proposing amending Administrative Rule of Montana 12.11.6302 to change "floats" to "launches," provide a definition for "launch," and provide a timeframe from June 1 to September 15 for the launch restriction per section of river for commercial use permit holders, instead of the restriction being year-round. The commission is also proposing to amend ARM 12.11.6306 to reflect the correct starting year that the five-year review is to occur, from 2024 to 2022. These amendments should ease restrictions on commercial users, spread out congestion at access sites, and not affect non-commercial use in restricted sections.

A public hearing will be held on March 19, 2019 at 6 p.m. at the Bitterroot National Forest Supervisor's Office, 1801 North 1st Street in Hamilton, Montana to discuss the proposed changes and take public comment. Public comments must be received no later than March 22, 2019 and can be provided at the public hearing or in writing to:

Bitterroot River Recreation
Department of Fish, Wildlife and Parks
3201 Spurgin Road
Missoula, MT, 59804
e-mail: shrose@mt.gov
website: http://fwphIncmstst002.mt.gov/news/publicNotices/rules/pn_0274.html

Thank you for your interest in Montana's fish, wildlife, and parks!

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BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 12.11.6302 and 12.11.6306) PROPOSED AMENDMENT
pertaining to recreational use on the)
Bitterroot River)

TO: All Concerned Persons

1. On March 19, 2019, at 6:00 p.m., the Fish and Wildlife Commission (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 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 March 8, 2019, 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.

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

12.11.6302 BITTERROOT RIVER COMMERCIAL USE PERMIT

RESTRICTIONS (1) Bitterroot River commercial use permit holders are restricted to two ~~floats~~ launches per section per day from June 1 to September 15 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) For the purposes of this rule, "launch" means the placement of a vessel in the water and traveling downstream. A vessel that is docked or beached without exiting the river may continue downstream without it counting as a second launch.

(2) remains the same but is renumbered (3).

AUTH: 87-1-303, MCA

IMP: 87-1-303, MCA

12.11.6306 REVIEW OF RIVER RECREATION RULES FOR BITTERROOT

RIVER (1) The commission shall review the rules governing recreational use on the Bitterroot River every five years starting in 2024 2022.

AUTH: 87-1-303, MCA

IMP: 87-1-303, MCA

REASON: In 2017, the commission proposed administrative rules restricting recreational and commercial use on portions of the Bitterroot River and establishing the Bitterroot River Commercial Use Permit. The rules were proposed to address concerns about congestion on the river and social conflicts between river users and were based on the recommendations of a citizen advisory council (CAC) in accordance with the River Recreation Management Rules. During public comment regarding the proposed rules, several people stated they wanted the restriction of commercial use permit holders be changed from "two floats per section" to "two launches per section." The commission adopted the new administrative rules at their December 7, 2017 meeting without changing the terminology of "floats" to "launches" and directed the department to evaluate the effectiveness of the rule after the first year of implementation to see if any amendments would be necessary.

The department analyzed the 2018 monitoring data and on January 7, 2019, held a meeting which included eleven of the sixteen CAC members that developed the rule language proposed in 2017 to develop any recommended amendments to the rule language. Based on the data analysis and feedback provided at the meeting, the commission is proposing amending ARM 12.11.6302 to change "floats" to "launches," provide a definition for "launch," and provide a timeframe from June 1 to September 15 for the launch restriction per section of river for commercial use permit holders instead of the restriction being year-round.

The commission is also proposing to amend ARM 12.11.6306 to reflect the correct starting year that the five-year review is to occur.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted 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 March 22, 2019.

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

6. 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.

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

8. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment 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 February 12, 2019.