

Regarding: The Montana Fish and Wildlife (FW) Commission's proposed amendments for commercial use of the West Fork of the Bitterroot River and the Upper Bitterroot River in Ravalli County. The **FW Commission will be meeting on April 25th in Helena** (FWP Headquarters, 1420 East 6th Avenue). One of the Commission's agenda items is these proposed amendments to ARM (Administrative Rules of Montana).

Here's the direct link to the agenda for the FW Commission's April 25th meeting:
<http://fwp.mt.gov/doingBusiness/insideFwp/commission/meetings/agenda.html?meetingId=47187934>

Documents ("cover sheets") relating to this agenda topic are listed under the "09:50 AM – Fisheries Division," as "Amendments to Administrative Rule Regarding the Bitterroot River Commercial Use Permit Restrictions" and Supporting Documents 1 through 4.

The Region 2 FWP office (3201 Spurgin Rd., Missoula) will be video conferencing with the FW Commission meeting on April 25th and you are welcome to come to the R2 office and watch and comment if you would like. You are also welcome to attend the meeting in Helena if you choose. (We are expecting this proposal to come up between 9:50 a.m. and 12 noon, but all Commission agenda times are approximate and best estimate only.)

If you have any questions about the process, please contact:

Christine Oschell, R2 River Recreation Manager
Fishing Access Site Program Manager
Montana Fish, Wildlife & Parks
3201 Spurgin Road, Missoula, MT 59804
coschell@mt.gov Office (406) 542-5562

Thank you.

Sharon Rose
Comments Coordinator, Region 2
Montana Fish, Wildlife & Parks

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Montana FWP



THE **OUTSIDE** IS IN US ALL.

Rec'd 4/25/19

FISH and WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: April 25, 2019

Agenda Item: Amendments to Bitterroot Commercial Use Permit Restrictions (R2)

Division: Fisheries

Action Needed: Final

Time Needed on Agenda for this Presentation: 10 minutes

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Background: Based on information collected during the 2018 season and feedback from river users, the department is recommending amending the Bitterroot River Commercial Use Permit Restrictions rule (ARM 12.11.6302) to change the word “floats” to “launches” and provide a definition of “launch.” In addition, the department is proposing the correction of a drafting error that is consistent with the intent of the citizen advisory committee’s 2017 recommendations. The correction would provide a timeframe from June 1 through Sept. 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 the Review of River Recreation Rules for Bitterroot River (ARM 12.11.6306) to reflect the correct starting year that the five-year review is to occur, 2022 instead of 2024. This will allow for four seasons of data collection.

Public Involvement Process & Results: Public comment on the proposed amendments began on Feb 22 and ended Mar 22. There was a public hearing on Mar 19 in Hamilton. FWP received 140 comments (116 written comments via email, mail and in person, and 24 people testified at the public hearing), with 71% in favor of the proposed amendments, 24% opposed to the amendments, and 8% not specifying support or opposition to the proposal. The themes offered in the comments are presented in the attached comment summary.

Alternatives and Analysis: 1. Adopt the amendments which would change “float” to “launch”; provide a definition for “launch”; and correct the drafting errors. This would allow commercial users to spread out on the river and would ease congestion at access sites. 2. Do not adopt amendments.

Agency Recommendation & Rationale: The department recommends adopting the rule amendments. These amendments would allow commercial users to spread out and would ease congestion at access sites. The amendments would not affect the permit system and cap, non-commercial days or wade-only sections that have been provided in the 2017 decision.

Proposed Motion: I move the Fish and Wildlife Commission adopt the proposed amendments to ARM 12.11.6302 changing “floats” to “launches”; provide a definition for “launch”; provide a timeframe from June 1 to Sept. 15 for the launch restriction per section of river for commercial use permit holders; and adopt the proposed amendment to ARM 12.11.6306 to reflect the correct year that the five-year review is to occur, 2022 instead of 2024.

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.

Comment Summary- Upper Bitterroot/West Fork Amendments

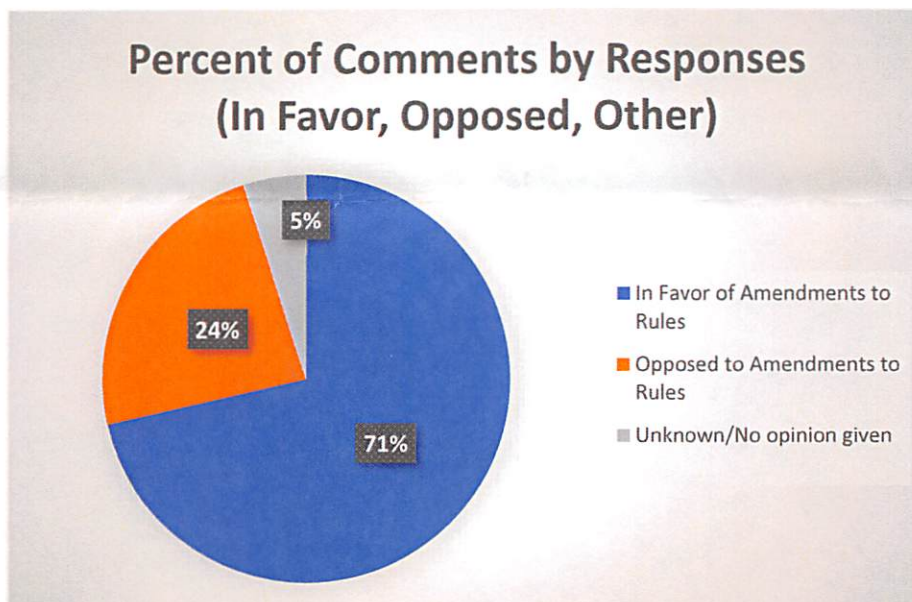
- R2 received a total of 140 comments
 - 116 written comments
 - 24 verbal comments
- 71% in favor of the amendments to the Upper Bitterroot/West Fork ARM rules.

Themes in Comments

- Replacing “float” with “launch” will ease congestion at boundary sites.
 - Replacing “float” with “launch” will allow outfitters to spread out on the river.
 - Replacing “float” with “launch” makes more sense logistically for outfitters.
- 24% opposed to the amendments to the Upper Bitterroot/West Fork ARM rules.

Themes in Comments

- Replacing “float” with “launch” will increase pressure on the river.
 - Replacing “float” with “launch” will increase the number of boats on the river.
 - Recommendation for a different system.
- 5% did not express an opinion in their comment on the amendments to the Upper Bitterroot/West Fork ARM rules.



Responses by Residence

	Montana Residents (n=75)	Out of State Residents (n=17)	Residence Unknown (n=42)
In Favor	55%	86%	89%
Opposed	44%	12%	9%
Unknown	1%	2%	2%