

BEFORE THE FISH AND WILDLIFE COMMISSION  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARINGS ON
ARM 12.11.501, 12.11.610,	)	PROPOSED AMENDMENT AND
12.11.630, 12.11.640,	)	ADOPTION
12.11.645,12.11.2206, 12.11.4101	)	
and the adoption of NEW RULES I	)	
through X pertaining to recreational	)	
use on rivers in Montana	)	

TO: All Concerned Persons

1. On January 3, 2017, at 6:00 p.m., the Fish and Wildlife Commission (commission) will hold a public hearing at the Fish, Wildlife and Parks Region 1 Office, 490 North Meridian Road, Kalispell, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On January 4, 2017, at 6:00 p.m., the commission will hold a public hearing at the Fish, Wildlife and Parks Region 2 Office, 3201 Spurgin Road, Missoula, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On January 5, 2017, at 6:00 p.m., the commission will hold a public hearing at the Fish, Wildlife and Parks Region 3 Office, 1400 South 19th Avenue, Bozeman, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On January 9, 2017, at 6:00 p.m., the commission will hold a public hearing at the Fish, Wildlife and Parks Region 5 Office, 2300 Lake Elmo Drive, Billings, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On January 11, 2017, at 6:00 p.m., the commission will hold a public hearing at the Fish, Wildlife and Parks Region 4 Office, 4600 Giant Springs Road, Great Falls, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On January 11, 2017, at 6:00 p.m., the commission will hold a public hearing at the Fish, Wildlife and Parks Headquarters, 1420 East 6th Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The department 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 December 9, 2016, to advise us of the nature of the

accommodation that you need. Please contact Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

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

- 12.11.501 LIST OF WATER BODIES (1) through (16) remain the same.  
(17) BOULDER RIVER [NEW RULE X]  
(17) through (25) remain the same but are renumbered (18) through (26).  
(27) CLARKS FORK YELLOWSTONE RIVER [NEW RULE VII]  
(26) through (38) remain the same but are renumbered (28) through (40).  
(41) FLATHEAD RIVER ARM 12.11.2206  
(39) through (70) remain the same but are renumbered (42) through (73).  
(74) LAZY CREEK [NEW RULE III]  
(71) through (78) remain the same but are renumbered (75) through (82).  
(83) MARIAS RIVER [NEW RULE V]  
(79) through (102) remain the same but are renumbered (84) through (107).  
(108) STILLWATER RIVER (FLATHEAD COUNTY) [NEW RULE I]  
(109) STILLWATER RIVER (STILLWATER COUNTY) [NEW RULE IX]  
(103) remains the same but is renumbered (110).  
(111) SUN RIVER [NEW RULE IV]  
(104) and (105) remain the same but are renumbered (112) and (113).  
(114) SWIFT CREEK [NEW RULE II]  
(115) TETON RIVER [NEW RULE VI]  
(106) through (116) remain the same but are renumbered (116) through  
(126).  
(127) YELLOWSTONE RIVER [NEW RULE VII]

AUTH: ~~23-1-106, 23-2-302,~~ 87-1-301, 87-1-303, MCA  
IMP: ~~23-1-106,~~ 87-1-303, MCA

12.11.610 BITTERROOT RIVER (1) Bitterroot River is closed to 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 tributary streams of the Bitterroot River are closed to use of any motorized watercraft.

AUTH: ~~23-1-106,~~ 87-1-303, MCA  
IMP: ~~23-1-106,~~ 87-1-303, MCA

12.11.630 MISSOURI RIVER (1) All tributary streams of the Missouri River are closed to use of any motorized watercraft, except any motorized watercraft powered by 10 horsepower or less, from May 15 through September 15 from the headwaters of the Missouri River to the confluence with Prewett Creek.

~~(1)~~ (2) In ~~Broadwater County~~ the Missouri River is closed to all swimming, boating, sailing, and floating in the following areas:

- (a) between Toston dam and 300 feet downstream of the dam; and
- (b) the reservoir between the Toston dam and the boat barrier.

(3) Missouri River from Holter Dam to Wolf Creek bridge is restricted:

- (a) to a no wake speed, as defined in ARM 12.11.101(1); and
- (b) vessels are restricted to traveling in the direction of the flow of the river.

(4) Missouri River from Wolf Creek Bridge to Pelican Point FAS is closed to motorized water craft, except any motorized watercraft powered by 10 horsepower or less, from June 1 through September 15.

~~(2)~~ (5) The following areas of the Missouri River are closed to use of any motor-propelled watercraft:

~~(a) in Cascade County;~~

~~(i)~~ (a) that portion of the Missouri River from the Burlington Northern Railway Bridge No. 119.4 at Broadwater Bay in Great Falls to Black Eagle; and

~~(ii)~~ (b) that portion of the Missouri River from the Warden Bridge on 10th Avenue South in Great Falls to the floater take-out facility constructed near Oddfellows Park at Broadwater Bay as posted.

AUTH: 23-1-106, 87-1-303, MCA

IMP: 23-1-106, 87-1-303, MCA

12.11.640 SWAN RIVER (1) Swan River is located in Missoula, Flathead, and Lake counties.

(2) Swan River is limited to a controlled no wake speed, as defined in ARM 12.11.101, in the following areas:

(a) in Missoula County, from the headwaters of Swan River to the confluence with Lindbergh Lake; and

(b) from Lindbergh Lake to the mouth of Swan Lake in Lake County.

~~(2) In Lake County, the Swan River is limited to a controlled no wake speed, as defined in ARM 12.11.101, in the following area:~~

~~(a) from the mouth of Swan Lake to Porcupine Bridge approximately 4 1/2 miles.~~

(3) In Flathead and Lake counties, the Swan River is limited from July 1 to September 15 of each year to either a controlled no wake speed, as defined in ARM 12.11.101, or the minimum operating speed necessary to progress upstream in the following area:

(a) from where the Swan River flows out of Swan Lake in Lake County, as marked, to where Bear Creek enters the Swan River in Flathead County.

AUTH: 23-1-106, 87-1-303, MCA

IMP: 23-1-106, 87-1-303, MCA

12.11.645 WHITEFISH RIVER (1) Whitefish River is located in Flathead County.

(2) Whitefish River is limited to a controlled no wake speed, as defined in ARM 12.11.101(1), from its confluence with Whitefish Lake to the bridge on JP Road.

(3) Whitefish River is limited to manually and electric powered watercraft from its confluence at the railroad trestle south of Whitefish Lake outlet to the bridge on JP Road.

(4) Whitefish River is limited to a controlled no wake speed, as defined in ARM 12.11.101(1), from JP Road to the confluence with Stillwater River from July 1 to September 15.

(5) Personal watercraft are prohibited on the Whitefish River from JP Road to the confluence with Stillwater River.

AUTH: ~~23-1-106~~, 87-1-303, MCA

IMP: ~~23-1-106~~, 87-1-303, MCA

12.11.2206 FLATHEAD RIVER (1) A portion of the Flathead River is located in Flathead County.

(2) Church Slough is closed to boating March 1 to April 10.

(3) Fennon Slough is restricted to a controlled no wake speed, as defined in ARM 12.11.101(1).

(4) A portion of the Flathead River from the confluence of the South Fork of the Flathead River to the Highway 35 Bridge is:

(a) closed to all personal watercraft; and

(b) restricted no wake, as defined in ARM 12.11.101(1), from June 1 to October 15.

~~(4)~~ (5) The North Fork of the Flathead River:

(a) is closed to all motorboats from the Canadian border to the Camas Bridge; and

(b) is closed to all motorboats with motors greater than 10 horsepower from Camas Bridge to the confluence of the Middle Fork of the Flathead River.

~~(5)~~ (6) The Middle Fork of the Flathead River:

(a) is closed to all motorboats from the Bob Marshall Wilderness boundary to the Highway 2 Bridge at Essex; and

(b) is closed to all motorboats with motors greater than 10 horsepower from the Highway 2 Bridge at Essex to the confluence of the South Fork of the Flathead River.

~~(6)~~ (7) The South Fork of the Flathead River:

(a) is closed to all motorboats from Spotted Bear Footbridge to the Bob Marshall Wilderness boundary; and

(b) is closed to all motorboats with motors greater than 10 horsepower from Spotted Bear Footbridge to Hungry Horse Reservoir at full pool (3850 feet elevation).

AUTH: ~~23-1-106~~, 87-1-303, MCA

IMP: ~~23-1-106~~, 87-1-303, MCA

12.11.4101 PARK COUNTY (1) All rivers and streams in Park County east of the continental divide are closed to the use of all watercraft propelled by machinery of over 10 horsepower with the following exceptions:  
(a) ~~on the Yellowstone River, downriver from Highway 89 bridge (near mouth of Shields River).~~

AUTH: ~~23-1-106~~, 87-1-303, MCA  
IMP: ~~23-1-106~~, 87-1-303, MCA

4. The rules as proposed to be adopted provide as follows:

NEW RULE I STILLWATER RIVER (1) Stillwater River is located in Flathead County.

(2) Stillwater River is limited to a controlled no wake speed, as defined in ARM 12.11.101(1), from Upper Stillwater Lake to the confluence with Flathead River.

(3) Personal watercraft are prohibited on the Stillwater River from Upper Stillwater Lake to the confluence with Flathead River.

AUTH: 87-1-303, MCA  
IMP: 87-1-303, MCA

NEW RULE II SWIFT CREEK (1) Swift Creek is located in Flathead County.  
(2) The use of motorized watercraft is prohibited on Swift Creek.

AUTH: 87-1-303, MCA  
IMP: 87-1-303, MCA

NEW RULE III LAZY CREEK (1) Lazy Creek is located in Flathead County.  
(2) The use of motorized watercraft is prohibited on Lazy Creek.

AUTH: 87-1-303, MCA  
IMP: 87-1-303, MCA

NEW RULE IV SUN RIVER (1) Sun River from its headwaters to Ulm-Vaughan Road Bridge is closed to motorized watercraft, except any motorized watercraft powered by 10 horsepower or less.

AUTH: 87-1-303, MCA  
IMP: 87-1-303, MCA

NEW RULE V MARIAS RIVER (1) Marias River is closed to motorized watercraft, except any motorized watercraft powered by 10 horsepower or less, and personal watercraft from:

- (a) its headwaters to Tiber Reservoir; and
- (b) Tiber Dam to the confluence with Missouri River.

AUTH: 87-1-303, MCA

IMP: 87-1-303, MCA

NEW RULE VI TETON RIVER (1) Teton River is closed to motorized watercraft, except any motorized watercraft powered by 10 horsepower or less, and personal watercraft from its headwaters to its confluence with the Marias River.

AUTH: 87-1-303, MCA

IMP: 87-1-303, MCA

NEW RULE VII YELLOWSTONE RIVER (1) Yellowstone River is closed to motorized watercraft, except any motorized watercraft powered by 10 horsepower or less, from Yellowstone National Park to Reed Point from July 15 to September 15.

(2) Yellowstone River is closed to use of personal watercraft from Highway 89 Bridge to Reed Point.

(3) Stream tributaries of the Yellowstone River are closed to motorized watercraft, except any motorized watercraft powered by 10 horsepower or less, from Yellowstone National Park to the confluence with Clarks Fork Yellowstone River.

AUTH: 87-1-303, MCA

IMP: 87-1-303, MCA

NEW RULE VIII CLARKS FORK YELLOWSTONE RIVER (1) Clarks Fork Yellowstone River is closed to motorized watercraft, except any motorized watercraft powered by 10 horsepower or less, from the Wyoming border to the confluence with the Yellowstone River.

AUTH: 87-1-303, MCA

IMP: 87-1-303, MCA

NEW RULE IX STILLWATER RIVER (1) Stillwater River is located in Stillwater County.

(2) Stillwater River is closed to motorized watercraft, except any motorized watercraft powered by 10 horsepower or less, from the Custer National Forest to the confluence with the Yellowstone River.

AUTH: 87-1-303, MCA

IMP: 87-1-303, MCA

NEW RULE X BOULDER RIVER (1) Boulder River is closed to motorized watercraft, except any motorized watercraft powered by 10 horsepower or less, from the Park County line to its confluence with the Yellowstone River.

AUTH: 87-1-303, MCA

IMP: 87-1-303, MCA

REASON: The commission received a petition submitted by Backcountry Hunters and Anglers titled the Quiet Waters Initiative. The petition states Montana has experienced advanced motorized technology on its waterways penetrating waters thought to be unusable to motorized watercraft in the past. These high performance watercraft threaten traditional uses or are capable of penetrating previously quiet waters. The commission initiated rulemaking on the petition at their May 12, 2016 meeting stating that the commission should consider being proactive instead of reactive to the changes in recreation on Montana's waterways to avoid conflicts and protect traditional and safe recreational uses.

5. 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: Department of Fish, Wildlife and Parks, Attn: Quiet Waters Petition, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail QuietWaters@mt.gov, and must be received no later than January 13, 2017.

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

7. 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.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and adoption of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Rebecca Dockter  
Rebecca Dockter  
Rule Reviewer

/s/ Dan Vermillion  
Dan Vermillion  
Chairman  
Fish and Wildlife Commission

Certified to the Secretary of State November 14, 2016.