

Decision Notice

Draft Environmental Assessment for the Proposed Boating Rule Changes: Clark Fork, Bitterroot and Blackfoot Rivers

and

RECOMMENDATION TO THE FISH, WILDLIFE & PARKS COMMISSION: Department's Recommendation for Final Boating Rule Changes

The Draft EA is available for review on FWP's web site (<http://fwp.mt.gov/>) under "Public Notice," then "ARM Rules." A hard copy may be viewed at or obtained from Montana Fish, Wildlife & Parks at the address on this cover page. The FWP Commission is scheduled to make a final decision on the proposed boating rule changes at its regular Commission meeting on October 13, 2011 in Helena.

IMPORTANT NOTICE!

**Refer to Pg. 13 for information on opportunity to provide additional
comments on the rule amendments that pertain specifically to
personal watercraft.**

**Montana Fish, Wildlife and Parks
Region 2 Office
3201 Spurgin Road
Missoula, MT 59804
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Decision Notice

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and
RECOMMENDATION TO THE FISH, WILDLIFE & PARKS COMMISSION:
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INTRODUCTION

On May 12, 2011 the Montana Fish, Wildlife & Parks (FWP) Commission proposed changes to the boating rules for sections of the Clark Fork, Bitterroot and Blackfoot rivers (ARM 12.11.610, 12.11.615, and 12.11.620). On May 26, 2011 the Department issued a Draft Environmental Assessment (EA) for the proposed action. The public was invited to comment on the proposed rule changes and the Draft EA. This document serves as a recommendation for a final decision by the Commission. The recommendation was prepared by FWP staff and is based on analysis of public comments, input from a subgroup of the Region 2 Citizen Advisory Committee and FWP staff. The Commission will make a final decision on the proposed boating rule changes at its regular Commission meeting on October 13, 2011 in Helena.

DESCRIPTION OF PROPOSED ACTION

The Commission proposed changes to the existing boating rules that apply to the Clark Fork, Bitterroot and Blackfoot rivers (see Rule Proposal Notice and Draft EA for details). The proposed regulation changes were in response to the increase in river use in the vicinity of Missoula. They were intended to provide for diverse river recreation opportunities and to address public safety and social concerns associated with fast-moving motorboats¹ operating in proximity to other users. The Draft EA considered two alternatives:

Alternative A: No Action

The Draft EA assessed a No Action alternative. Under this alternative the Commission would retain the current regulations and would not adopt the proposed boating regulation changes.

Preferred Alternative B: Proposed Action

The Draft EA assessed the proposed changes to the rules. Refer to the Rule Proposal Notice or the Draft EA for complete information on the proposed changes.

PUBLIC PROCESS AND COMMENT

A Draft Environmental Assessment (EA) for the Proposed Action was made available for public review and comment from May 26, 2011 through June 27, 2011. Legal notices were published twice each in the following newspapers: *Missoulian*, *Independent Record* (Helena), *Mineral Independent* (Plains) and *Ravalli Republic* (Hamilton). The Department distributed 34 copies of the EA, 78 postcards and 29 email-notifications of the EA's availability to adjacent landowners and interested individuals, groups and agencies. The EA was available for public review on FWP's web site (<http://fwp.mt.gov/>), under "Recent Public Notices" beginning May 26, 2011. The Department also issued a statewide news release.

A public hearing was held at the Quality Inn, 3803 Brooks Street, Missoula, Montana, on Thursday, June 16th at 6:00 pm. The hearing provided an opportunity for the public to visit informally with FWP staff and

¹ § 61-1-101(34) (a), MCA: "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

ask questions about the proposal, followed by a formal presentation and overview of the proposal, then an opportunity for the public to provide verbal comments. The hearing was attended by 148 members of the public.

The Department received 647 comments on the proposed rule changes. Comments were from 604 individuals, 28 couples, 10 agencies or organizations, four petitions and one form-letter mailing.

COMMENT ANALYSIS

Online and paper comment forms enabled people to check a box indicating their support or opposition to a proposed change. They also had the option to check “neither.” Space was provided to submit additional comments. The department also received comments via email, mail, phone, and testimony at the hearing. All comments were recorded in their original format and compiled for quantitative and qualitative analysis. The quantitative analysis recorded the number of comments in support or opposition of various aspects of the proposal and the qualitative analysis recorded reasons for supporting or opposing the proposal, as well as additional thoughts, concerns or suggestions that were presented.

Quantitative Analysis

Based on each comment and statements made, comments were sorted into one of three categories: (1) General support for restricting motorized use, (2) general opposition to restricting motorized use and (3) neither. Categorizing comments in this way helped to understand what the general opinion of the public was towards motorized regulations in the area under consideration.

- 473 (73%) provided general support for restricting motorized use
- 157 (24%) provided general opposition for restricting motorized use
- 17 (3%) neither provided support nor opposition for restricting motorized use

Multi-signature comments were counted as one comment because they had one original message. However, it is worth noting the number of individuals (i.e., signatures) supporting these messages. Two petitions were opposed to the proposal and motorized restrictions and had 170 and 97 signatures. One petition was supportive of revising or revoking motorized use and had 227 signatures. One petition had 11 signatures and was specifically opposed to the proposal for an area included in Clark Fork Section IV. In addition, 92 “form-letter” postcards were received that were generally supportive of the proposal but suggested more motorized restrictions.

Those who provided general support for restricting motorized use frequently cited concerns related to safety and noise. Those who provided general opposition for restricting motorized use frequently cited loss of motorized opportunities or the need to have multiple use recreation on the rivers.

The Department also invited comments on proposed rule changes for the eight individual sections of the Blackfoot, Bitterroot and Clark Fork Rivers being considered for regulation changes. For each river section, comments were categorized as supporting the proposal, opposing the proposal, or neither supporting nor opposing the proposal (Table 1). Overall, analysis of the comments revealed that the level of support was higher for the proposals that were more restrictive on motorboats (i.e., support increased as the proposed action became more restrictive).

Table 1. Public opinion for the proposed regulations in the eight river sections. People with no opinion for a section may have had a broader opinion (e.g., no restrictions or no motorboats anywhere).

Individual River Section	Support Proposal	Oppose Proposal	No Opinion for this Section
Blackfoot Section that used to be part of Milltown Reservoir	60%	17%	24%
Bitterroot I Headwaters to Florence Bridge	40%	22%	38%
Bitterroot II Florence Bridge to Buckhouse Bridge	32%	30%	38%
Bitterroot III Buckhouse Bridge to Clark Fork River	45%	26%	29%
Clark Fork I Section that used to be part of Milltown Reservoir	63%	18%	18%
Clark Fork II Blackfoot River to Bitterroot River	64%	20%	16%
Clark Fork III Bitterroot River to I-90 Bridge	46%	26%	28%
Clark Fork IV I-90 Bridge to St. Johns FAS	28%	20%	51%

Particularly interesting is the relatively poor support for the proposed regulation changes in Bitterroot II and Clark Fork IV. Other sections had nearly 2:1 or 3:1 support to opposition, whereas these sections were closer to 1:1 and 3:2. Of importance is that this opposition came from motorized, non-motorized users, and homeowners, suggesting we did not address the concerns of multiple user groups.

Motorized users opposed to the Bitterroot II proposal were not in favor of the inability to access this section from Kelly Island Fishing Access Site (FAS), and to a lesser extent, the reduced number of days allowed. Non-motorized advocates did not like the continued use by large or fast boats. Both motorized and non-motorized users expressed concern about concentrating motorboat access at Florence Bridge.

Clark Fork IV also had opposition from several groups. Concentrating use in this 11-mile section was a prominent concern. Users of larger motorboats and local homeowners felt that use would be displaced from proposed restricted areas near Missoula to this area and be confined to too small an area. Non-motorized advocates wanted more restrictions and were concerned about concentrating motorized use if they were allowed.

Parsing the public comment and opinion by river section provides interesting insights, but has its limitations. The general trend between sections was more support with more motorized restriction. This is consistent with the strong opinion that generally supports motorized restriction. However, the comments on the Bitterroot II and Clark Fork IV proposals were unique in that the opposing opinion came from a variety of user groups. The limitation in this type of analysis is that river sections are not managed in isolation and resolving concerns in Bitterroot II and Clark Fork IV must involve adjusting regulations in other river sections.

Qualitative Analysis

Qualitative analysis of public comment revealed frequent themes, as well as issues or areas of concern that were not identified in the scoping efforts for the Proposed Action. This information provides context to the number of comments in support or opposition of the proposed rule changes. Public comment that detailed times and places of use and experiences on the rivers enabled the Department to modify the proposal to better address public comment and needed regulations, as well as anticipate any potential impacts that could be associated with rule changes.

Impacts to Natural Resources

Potential impacts to natural resources resulting from motorized use were presented in a considerable number (116) of the comments. Concerns included impacts to nesting birds, impacts to wildlife, potential for pollution, erosion of banks, impacts to water quality, impacts to fisheries and riparian habitat, and potential transfer of aquatic invasive species. The Department has little information regarding motorized-specific impacts on the natural resources in the river sections under review in this proposal. We concur that larger, fast moving motorboats can have an impact on a river's natural resources, as can slower moving craft to a lesser extent. Location-specific information regarding natural resource impacts is needed to recommend regulation changes. Nevertheless, the proposal does not expand the areas that are open to motorized use and in some areas proposes further restrictions on existing motorized use. Therefore, the Department concluded that if impacts are occurring, this proposal would lessen those impacts. Some of the concerns (such as flushing of birds, transfer of invasive species and polluting the river/littering) could be applied to non-motorized users as well, particularly where high use is occurring.

Personal Watercraft

Personal watercraft (PWC²), also known as jet skis, wave runners, etc., were specifically mentioned in a considerable number (109) of the comments. The majority of those comments described negative recreational experiences related to safety, noise, diminished recreational experiences, and general user conflicts. These experiences were shared by those representing a variety of user types. In many cases comments specifically requested a ban on personal watercraft. No comments were received in support of maintaining opportunity for use of personal watercraft despite their exclusion from use in areas and times proposed for boats with 20hp or less (PWC are typically around 70hp or more). FWP staff experience is that PWCs are used differently than other motorboats. Unlike other types of motorboats that are usually traveling upstream or downstream through an area, PWCs typically are operated in one area for an extended period of time. This means that other river users in the area where PWCs are being operated are impacted for a longer period of time. PWCs are often driven fast, are highly maneuverable in a variety of water depths and muffling of engine noise is often lost when they leave the water surface.

Displacement and Concentration of Motorized Use

The potential displacement and concentration of motorized use that could result from the proposed rule changes were shared as a concern in 20 comments. These comments referred to Bitterroot Section II, where the proposed rule changes would result in very limited access to that section due to the closure of Bitterroot Section III to spring motorboat use, which would eliminate loading areas at Kelley Island and Kona Bridge FASs, and to Clark Fork Section IV, where many of the residents of the Alberton area (between Ninemile Creek and St. John's Fishing Access Site) were concerned about the potential concentration of motorized users displaced from the Missoula area. Comments also expressed concern with potential conflict arising between recreationists on the water and motorized users because of concentrated use areas and limited access.

² § 23-2-502(13), MCA: "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.

Clark Fork Section II and III Delineation

Ten comments provided specific input on the proposal's delineation of Clark Fork River Sections II and III at the confluence with the Bitterroot River. Due to the braided nature of the confluence, and that the Kelly Island FAS boat launch is slightly upstream of the confluence (about ¼ mile), comments suggested that using more precise boundaries would be more appropriate for identifying potential changes in boating rules. Motorized recreationists also commented that the exclusion of the Kelly Island launch from motorized access would result in the loss of a launch site traditionally used to access downstream portions of the Clark Fork and Bitterroot rivers.

Recreational Use from Buckhouse Bridge to Harper's Bridge

Twenty-one comments described the Bitterroot and Clark Fork rivers from Buckhouse Bridge to Harper's Bridge as being heavily used by both non-motorized and motorized recreationists (particularly PWCs). Most non-motorized recreationists advocated for closure of this stretch to motorized use, particularly during the summer float season. Comments also characterized this section as having higher use because it is near urban areas.

Recreational Use above Buckhouse Bridge on the Bitterroot and below Harpers Bridge on the Clark Fork

Comments pertaining to these sections indicated less use and conflict during the existing seasons that allow motorized use. Above Buckhouse Bridge, comments were split 6 to 5 in regard to the presence of conflict or high use levels during times when motorized use was permitted. Below Harper's Bridge, the majority of comments (24) suggested that there was low use and /or low levels of conflict, compared to 9 comments with the opposite viewpoint. FWP staff experience suggest that use by motorboats is low in these sections.

Comments Support Some Separation of Users in Time and Space

One common observation was that non-motorized river users do not have a negative impact on the motorized users' experience but the presence of motorboats can greatly reduce the quality of the experience for non-motorized users (e.g., engine noise and exhaust detract from the experience of those seeking a quiet experience in the absence of motorized forms of activity).

Motorboat users suggested that the Department regulate the user and not the boat. They commented that there are laws that prohibit careless, unsafe operation of motorboats. However, while these laws communicate proper ethics in operation of motorboats, many are difficult to enforce. This is particularly true on rivers as opposed to lakes. Lakes can be managed to have designated swimming areas and no wake zones. On these rivers, the users are more concentrated in the relative narrow space, especially at access sites. Rivers, because they are moving, offer little opportunity to designate swimming areas. Wakes are typically unavoidable to move a boat upstream even at safe speeds.

Some of the comments correctly pointed out that the rivers are a public right-of-way, and that regulating the use of the river solely to benefit commercial interests or private property owners is inappropriate. This comment is primarily aimed at riverside homeowners and river guides and outfitters advocating for motorized rules.

Loss of Opportunity for Motorboats

Many motorized users commented that the proposed rule changes would unfairly regulate motorized use when compared to non-motorized uses, which were gaining opportunities to recreate. They commented that the motorized use in the area under review would become more restrictive as non-motorized user opportunities expanded. FWP staff points out that beyond the area under review, subgroups of non-motorized users are restricted as well. In Rock Creek near Clinton, float anglers can use the creek only up to July 1 to reduce conflicts with wade anglers. On the Blackfoot, access points are managed to encourage tube and swimming use in the lower part of the river and angling and smaller groups in the

upper sections. The Big Hole and Beaverhead rivers are managed through special restrictions on when and where commercial use and nonresident floating can occur.

DEPARTMENT'S RECOMMENDATION TO THE FWP COMMISSION

The FWP Commission is the final decision-maker on the boating rule changes. It is the Department's responsibility to recommend a final set of rules to the Commission.

Public comments provided the Department with ample information about river use and experiences. Developing recommendations was more straightforward for the sections of river when comments indicated consistent accounts of use and experiences. Conversely, the Department was more cautious in developing recommendations for sections of river where the comments offered contradicting accounts of use levels and experiences. Department staff experience was also an important factor in developing the recommendations. Staff experience spans the past 20 years on these rivers.

The Department's recommendations seek to provide a full variety of quality recreational opportunities for a diverse public. The Department also followed the guidance of the FWP Statewide River Recreation Rules that directs us to consider less restrictive management intervention before proceeding to more restrictive measures. The Department's recommendations seek to retain motorboat opportunities on the rivers under review while addressing social and public safety concerns associated with motorboats operating in close proximity to other users, particularly in those areas with higher use. The recommendations are illustrated in map format on page 8 and in Table 2 on pages 9-10. These are followed by individual recommendations for each river section and the rationale for each recommendation. The following definitions apply:

Current regulations: These are the rules that are currently in place for the Clark Fork, Blackfoot and Bitterroot Rivers.

Proposed regulations: These are the rules that were originally proposed by the Commission on May 12 and circulated for public review and comment.

Recommendations: These are the Department's recommendations to the Commission for final rules and are based on the public comments, the environmental assessment, and input from staff.

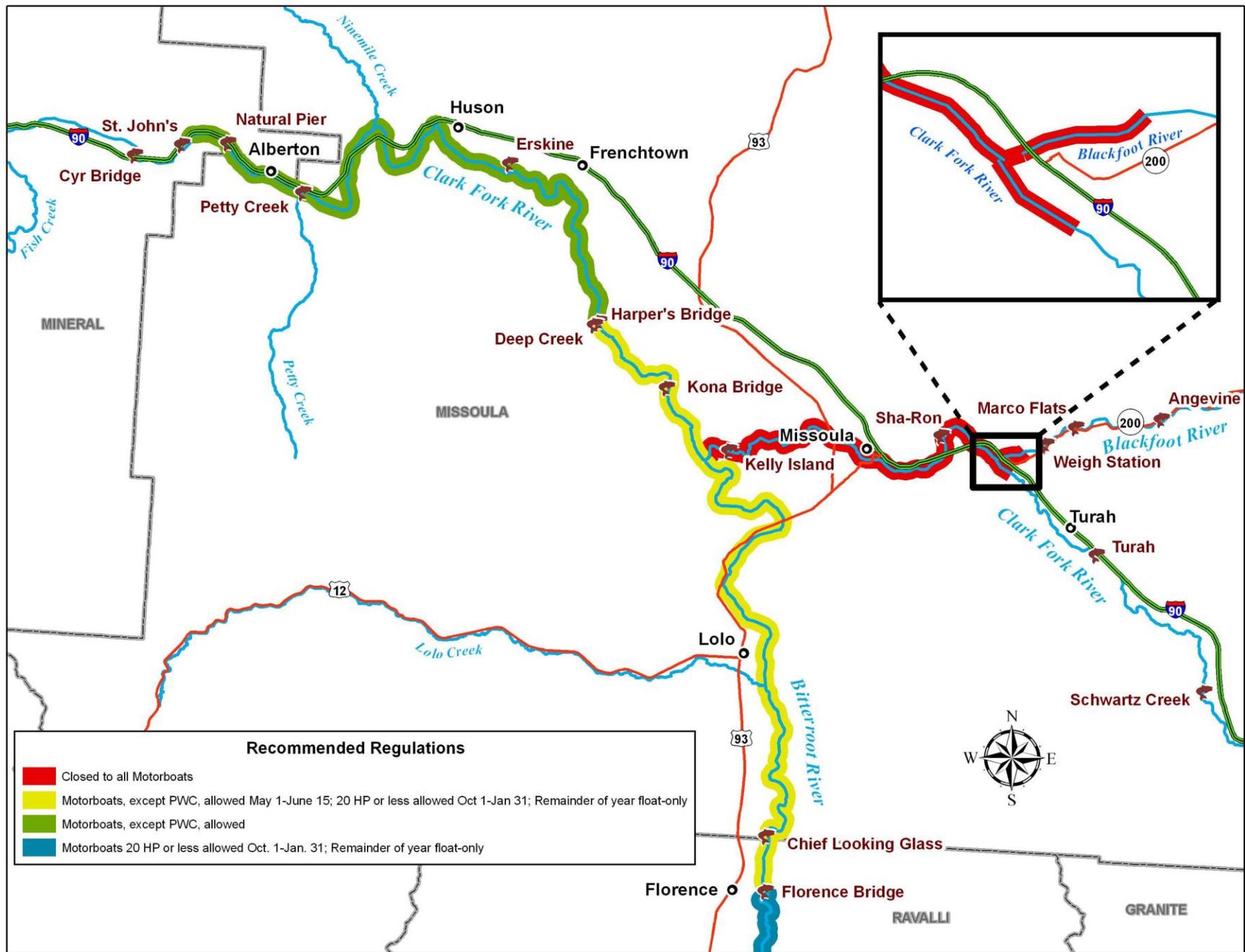


Table 2. Comparison of CURRENT, PROPOSED (in the EA), and RECOMMENDED regulations for the Blackfoot, Clark Fork, and Bitterroot rivers. PWC refers to personal watercraft.

River Section:	CURRENT regulations	PROPOSED regulations for public comment (in the EA)	RECOMMENDATION to the FWP Commission
Blackfoot: Section of river that used to be part of Milltown Reservoir	<ul style="list-style-type: none"> • No wake speed on Milltown Reservoir 	<ul style="list-style-type: none"> • Closed to all motorboats 	SAME as PROPOSED
Clark Fork Section I: Section of river that used to be part of Milltown Reservoir	<ul style="list-style-type: none"> • No wake speed on Milltown Reservoir 	<ul style="list-style-type: none"> • Closed to all motorboats 	SAME as PROPOSED
Clark Fork Section II: Blackfoot River [downstream] to the Bitterroot River	<ul style="list-style-type: none"> • No motorboat restrictions from the Blackfoot River to the north side of the Interstate 90 Bridge nearest East Missoula. • Closed to motorboats from July 1-Sept 30 from the north side of the Interstate 90 Bridge nearest East Missoula to the Bitterroot River 	<ul style="list-style-type: none"> • Closed to all motorboats 	SAME as PROPOSED Plus, <u>change the downstream “Bitterroot River” boundary of this section to be the “Kelly Island (Spurgin Road) Fishing Access Site (FAS) boat ramp and the Grass Valley Ditch Diversion”</u>
Clark Fork Section III: Bitterroot River [downstream] to the north side of Interstate 90 Bridge, east (upstream) of Ninemile Creek	<ul style="list-style-type: none"> • No motorboat restrictions 	<ul style="list-style-type: none"> • Motorboats 20 hp or less allowed year-round. 	Clark Fork Section III to become, “ <u>Kelly Island (Spurgin Road) Fishing Access Site (FAS) boat ramp and the Grass Valley Ditch Diversion</u> downstream to Harper’s Bridge FAS”, with these proposed regulations: <ul style="list-style-type: none"> • Motorboats other than PWC allowed May 1-June 15 • Motorboats 20 hp or less allowed October 1-January 31 • Remainder of year--float only
Clark Fork Section IV: The north side of Interstate 90 Bridge, east (upstream) of Ninemile Creek, [downstream] to St. John’s FAS	<ul style="list-style-type: none"> • No motorboat restrictions 	SAME as CURRENT (no change)	Clark Fork Section IV to become, “Harper’s Bridge FAS to St. John’s FAS”, with these proposed regulations: <ul style="list-style-type: none"> • Motorboats other than PWC allowed

River Section:	CURRENT regulations	PROPOSED regulations for public comment (in the EA)	RECOMMENDATION to the FWP Commission
Bitterroot Section I: Headwaters [downstream] to Florence Bridge	<ul style="list-style-type: none"> • Motorboats <u>15 hp</u> or less allowed October 1-January 31 • Remainder of year--float only 	<ul style="list-style-type: none"> • Motorboats <u>20 hp</u> or less allowed October 1-January 31 • Remainder of year--float only 	SAME as PROPOSED ; plus add:
Bitterroot Section II: Florence Bridge [downstream] to Buckhouse Bridge	<ul style="list-style-type: none"> • No motorboat restrictions May 1-June <u>30</u> • Motorboats <u>15 hp</u> or less allowed October 1-January 31 • Remainder of year--float only 	<ul style="list-style-type: none"> • No motorboat restrictions May 1-June <u>15</u> • Motorboats <u>20 hp</u> or less allowed October 1-January 31 • Remainder of year--float only 	Combine Bitterroot Sections II and III (to become, “Florence Bridge downstream to the Clark Fork River”), with these proposed regulations: <ul style="list-style-type: none"> • Motorboats other than PWC allowed May 1-June <u>15</u> • Motorboats <u>20 hp</u> or less allowed October 1-January 31 • Remainder of year--float only
Bitterroot Section III: Buckhouse Bridge [downstream] to the Clark Fork River	<ul style="list-style-type: none"> • No motorboat restrictions May 1-June <u>30</u> • Motorboats <u>15 hp</u> or less allowed October 1-January 31 • Remainder of year--float only 	<ul style="list-style-type: none"> • Motorboats <u>20 hp</u> or less allowed October 1-January 31 • Remainder of year--float only 	(Continued from Section II) <ul style="list-style-type: none"> • Motorboats <u>20 hp</u> or less allowed October 1-January 31 • Remainder of year--float only

Blackfoot River and Clark Fork River Section I (Old Milltown Reservoir Area)

Recommendation

The Department recommends that the FWP Commission approve the proposed boating rule amendments for these sections to:

- Prohibit all motorboat use

Rationale

Public comment provided very strong support for the proposal to close these two river sections to Motorized Use (Table 1). Comments supported the need to revise the rules to fit the transition from Milltown Reservoir to a free-flowing river and extend existing rules on the Clark Fork and Blackfoot downstream to the confluence. Additionally, the Blackfoot River Recreation Management Plan³ lists closing the Blackfoot River to motorized use as a key consideration for maintaining desired conditions.

Clark Fork River Section II (Blackfoot River to the Bitterroot River)

Recommendation

The Department recommends that the FWP Commission approve the proposed boating rule amendments for this section to:

- Prohibit all motorboat use

The Department also recommends that the Commission modify the downstream “Bitterroot River” boundary of this section to be the “Kelly Island (Spurgin Road) Fishing Access Site (FAS) boat ramp and the Grass Valley Ditch Diversion.”

Rationale

Public comment provided very strong support for the proposal to close this section to motorized use (Table 1) and cited concerns related to conflicts and safety issues between motorized and non-motorized recreationists. Comments also suggested using specific landmarks as downstream boundaries for this section instead of the more confusing Clark Fork/Bitterroot confluence which is comprised of multiple braided channels. Additionally, motorized recreationists advocated that the Kelly Island (Spurgin Road) FAS boat ramp remain open for motorized access to portions of river open to motorized use that could be accessed from downstream of the ramp.

Bitterroot River Section I (Headwaters to Florence Bridge)

Recommendation

The Department recommends that the FWP Commission approve a modification to the proposed boating rule amendments for this section to:

- Allow motorboats 20 hp or less October 1-January 31
- Prohibit all motorboat use for the remainder of the year

Rationale

Public comment provided support for the proposal (Table 1) and included very few consistent suggestions for modifications. Comments did not suggest conflict between motorized and non-motorized recreationists in this section nor did they describe safety concerns related to motorized use that would be allowed under the proposal.

³ FWP. 2009. Blackfoot River Recreation Management Plan

Bitterroot River Sections II & III (Florence Bridge to The Clark Fork River)

Recommendation

The Department recommends that the FWP Commission approve modifications to the proposed boating rule amendments to:

- Allow motorboats, except PWC, May 1 – June 15
- Allow motorboats 20 HP or less October 1 – January 31
- Prohibit motorized use for the remainder of the year

Rationale

Public comment generally supported restrictions on motorized use, particularly from Buckhouse Bridge downstream during the summer recreational floating season when there is a higher potential for safety concerns and conflicts between high-speed motorized craft and non-motorized recreationists. Comments from residences below Buckhouse Bridge offered inconsistent accounts of conflict with motorized users. Comments did not indicate frequent conflict or safety concerns during the times that motorized use is currently permitted on the Bitterroot River upstream of Buckhouse Bridge. However, there was concern regarding the potential displacement and concentration of motorized use in Bitterroot Section II, where there is only two public access sites for motorized access. The recommendation would make the boating regulations for both sections (II and III) the same, improving public access and dispersing motorized users, simplifying the regulations, and facilitating enforcement. This also separates motorized and non-motorized uses in time and prohibits PWC, which should reduce conflicts and safety concerns, as well as noise.

Clark Fork River Sections III & IV (Bitterroot River to St. Johns FAS)

Recommendation

The Department recommends that the FWP Commission approve modifications to the proposed boating rule amendments to:

- From the Kelly Island (Spurgin Road) FAS boat ramp and Grass Valley Ditch Diversion to Harper's Bridge:
 - Allow motorboats, except PWC, from May 1 – June 15
 - Allow motorboats 20 HP or less from October 1 through January 31
 - Prohibit motorboats for the remainder of the year
- From Harper's Bridge FAS to St. John's FAS:
 - Allow motorboats, except PWC, year-round

As part of the recommendation for these sections, the Department will move forward with incorporating a concrete boat ramp in the design plans for the Harper's Bridge Fishing Access Site (FAS) development project. After examining concerns related to motorized use in these sections, the Department has reconsidered the development of a concrete boat ramp at Harper's Bridge FAS and concluded that the recommended amendments to boating rules would diminish concerns associated with motorized use. Not building the boat ramp would require moving the Harper's FAS boundary upstream to Kona FAS, or only providing access to the section via a ramp about 20 miles further downstream. The ramp at Harper's FAS would be expected to be built by fall of 2012, but sooner if possible.

Rationale

Public comment received for these sections generally supported restrictions on motorized use, particularly from the Bitterroot River to Harper's Bridge FAS during the summer recreational floating season when there is a higher potential for safety concerns and conflicts. Comments indicated frequent conflict or safety concerns with high-speed motorized craft (particularly PWC) between the Bitterroot

River and Harper's Bridge. Conversely, below Harpers Bridge to St. John's FAS, comments did not indicate frequent conflict or safety concerns. Motorized recreationists characterized that section of river below Harper's Bridge as a particularly desirable area for boating.

Development of a concrete boat ramp at Harper's Bridge FAS will help diminish concerns related to motorized use. Above Harper's Bridge FAS, the Recommendation separates use in time (e.g., float only during the summer season) whereas below Harper's Bridge FAS motorized use is separated in space from the more popular float sections near Missoula. Extending the motorized section upstream from Ninemile Bridge would disperse motorized use and access from the Alberton area, and prohibiting PWC should reduce noise and other user conflicts.

SIGNIFICANCE OF IMPACTS

It is the Department's responsibility through this Decision Notice to determine the need for an Environmental Impact Statement (EIS). Based on the EA and applicable laws, regulations and policies, the Department determined that the modified proposed action will not have measurable effects on the human or physical environments associated with these boating regulations changes. Therefore the Department concluded that the EA is the appropriate level of analysis and the preparation of an EIS is unnecessary.

SUMMARY AND REGIONAL SUPERVISOR'S FINAL RECOMMENDATIONS

The majority of the comments supported more restrictions to motorized use, and in general, supported the proposed rule changes. This translated to increased support for river sections with increased restrictions. There was strong support for proposed regulations in Blackfoot River, Bitterroot River Sections I and III, and Clark Fork River Sections I, II and III. Proposed regulations in Bitterroot River Section II and Clark Fork River Section IV had slight and moderate support, respectively. More importantly, public comment related to use and concerns (described in the Qualitative Analysis section) resulted in the Department recommending regulations be less restrictive than originally proposed where social conflict was not common and evident (e.g., Bitterroot River below Florence and the Clark Fork below Harper's Bridge). The Department's recommendation also addresses specific concerns voiced in the public comment (e.g., the use of PWC, motorized access to the Bitterroot River and reducing the potential for motorized crowding near Alberton). As the Department's official representative, I recommend that the FWP Commission adopt the Department's recommendations for final rule changes for the Blackfoot, Clark Fork, and Bitterroot rivers, as outlined in this Decision Notice and contingent upon any additional public comments on the amendments affecting personal watercraft (see below).

OPPORTUNITY TO PROVIDE ADDITIONAL COMMENTS

The EA examined the predicted impacts of a proposed action that applies to motorized watercraft (motorboats). Motorboats include all motorized uses including personal watercraft such as jet skis, waverunners, etc. As such, the environmental analysis included the impacts posed by personal watercraft and the Department took this into account when proposing this Decision Notice. Though the Department received numerous public comments that specifically addressed the use of personal watercraft, the Department is extending the comment period on the proposed rule amendments affecting personal watercraft to ensure that the public has been adequately informed about these proposed changes.

Therefore, the Department will provide an additional public comment period on the recommendation to prohibit personal watercraft on all of the sections of the Clark Fork, Blackfoot, and Bitterroot rivers identified in the EA and rules. Comments must be received by the Department no later than 5:00 p.m. on October 7. The Department will only consider additional comments that pertain to the recommendation to prohibit personalized watercraft. Public comment for other portions of the recommended rules contained in this Decision Notice has closed, and any comment

received on those portions of the rule will not be considered. **Comments on the personal watercraft issue stated above must be mailed to:**

Montana Fish, Wildlife and Parks
Region 2 Office
3201 Spurgin Road
Missoula, MT 59804

Or emailed to R2personalwatercraft@mt.gov



Mack Long
Regional Supervisor

9/29/11

Date