



MONTANA FISH AND WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

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Meeting Date: Oct. 19, 2023

Agenda Item: Advisory group's recommendation for Lake Five motorized restrictions

Action Needed: Decision to initiate rule drafting

Time Needed on Agenda for this Presentation: 5 minutes

Background: On October 3, 2022, Fish, Wildlife & Parks (FWP) received a petition asking to prohibit wake surfing and the use of ballast tanks and devices to increase wake size on Lake Five year-round. Additionally, the petition requested a no wake requirement for all boats from April 1 to July 15. There currently are no such boating regulations in place. At the Feb. 22, 2023, meeting, the commission voted to take no action on the petition and directed the department form a citizens advisory group, tasked with developing recommendations for potential Administrative Rules regarding Lake Five motorized restrictions. On Aug. 24 and Sept. 5, 2023, the department convened a 10-person advisory group to carry out this task. The advisory group reached consensus on a recommendation to prohibit wake surfing and wake enhancements on Lake Five until July 1 each year and allow wake surfing and wake enhancements from 12 p.m. to 6 p.m. beginning July 1.

Public Involvement Process & Results: The public was provided online and in person opportunities to give their comments to the advisory group prior to their assembling the recommendation. Public comment will be accepted on this cover sheet from Sept. 7 through Sept. 19 on the FWP website. and the commission will take public comment at the Oct. 19 meeting. If the commission invites the advisory group to draft rules and present those at a future meeting, the commission could subsequently direct the group, with the department's assistance, to file the rules with the secretary of state pursuant to the Montana Administrative Procedures Act.

Analysis & Alternatives:

Alternative A: Invite the advisory group to draft rules and present those to the commission at a future meeting. The department would be available to administratively assist the group with the rule drafting process.

Alternative B: Not accept the recommendation. The current rules would remain in place. There would be no new rules regarding motorized restrictions on Lake Five.

Agency Recommendation & Rationale: The department considered the advisory group's recommendations from the standpoint of public safety and natural resource impacts. The department has not documented any boating accidents or other data pointing to an existing motorized boating safety issue on Lake Five. Nor has the department identified any natural resource damage occurring because of motorized boating on Lake Five. Given the absence of documented boating safety concerns and no evidence suggesting natural resource damage, the agency recommends the commission not accept the group's recommendation.

Proposed Motion: I move the Fish and Wildlife Commission not accept the advisory group's recommendation for potential Administrative Rules regarding motorized restrictions on Lake Five.

Alternative (not department recommended) Motion: I move the Fish and Wildlife Commission accept the recommendation for Administrative Rules, initiate rulemaking, and instruct the advisory group, with the administrative assistance of the department, to draft rule language to present to the commission.