

FISH and WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: August 11, 2016

Agenda Item: Bass Fishing Contest Petition

Division: Fisheries

Action Needed: Final

Time Needed on Agenda for this Presentation: 15 Min

Background: On July 14, 2016, Don Collins submitted a petition to amend Administrative Rule 12.7.808 to allow bass caught during authorized catch and release fishing contests to be held by participants without regard to fish length limits. The petition retains the requirement that the number of fish held cannot otherwise exceed the daily limit allowed on the water body. Because it would allow a daily limit of bass to be held without concern for length limits, the amendment would override that aspect of current fishing regulations on any water body for which length limits on bass exist. Montana Code Annotated requires the Commission to either deny the petition or initiate rulemaking within 60 days.

Public Involvement Process & Results: The public has not yet had an opportunity to review or comment on the petition. The proposed rule change modifies current fishing regulations during bass fishing contests. If approved by the Commission, rulemaking processes would be initiated for the proposed change that would include public involvement directly on this issue.

Alternatives and Analysis:

The Commission can deny the petition. Supporting this decision is that an Administrative Rule amendment is outside of the annual fishing regulation setting process, in which all regulations are approved annually. The ARM amendment remains in effect until changed and does not receive annual review. In contrast, annual and biennial regulations allow the Commission to be responsive to the fish and wildlife needs within Montana and adopt quotas and other regulations for hunting, fishing, and trapping in a responsive manner to an ever changing biological environment. Another issue is that someone following the rules in the petition could actually end up violating fishing regulations. In the case of a contest on a lake where only one bass over 12 inches is allowed, this regulation could be violated because of the sentence in the rule that “All fish must be released at the end of the day unless the fish died as a result of handling during the contest.” If a contestant had two fish over 12 inches dying during the tournament, they would be compelled to keep both of them and would be in violation of the regulation. This is contrary to a major objective for fishing regulations which is to provide needed protection to fish populations. Providing exceptions to the existing regulations for some, but not all, users reduces the ability to meet this objective and creates other issues with enforceability and fairness.

The Commission can approve the petition and initiate the rulemaking process. Approval would initiate the Montana Administrative Procedure Act (MAPA) process.

Agency Recommendation & Rationale: FWP recommends that the Commission deny the petition and retain all modifications to fishing regulations in its annual and biennial regulation setting process. FWP has consistently required fishing contests to follow existing fishing regulations, and providing exceptions to the existing regulations for some, but not all, users reduces the ability to meet this objective and creates other issues with enforceability and fairness.

Proposed Motion: I move the commission deny the petition submitted by Mr. Collins requesting an administrative rule change regarding bass possession limits during tournaments.