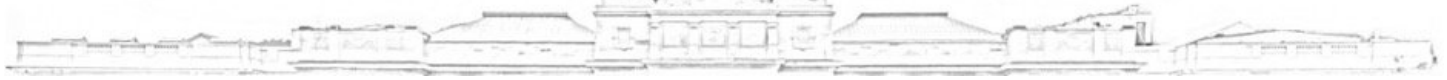




ADMINISTRATIVE RULES OF MONTANA



12.4.104 PETITIONS RELATING TO RESTRICTING RECREATIONAL USE OF CLASS I OR CLASS II RIVERS AND STREAMS

- (1) Any person may petition the commission for an order limiting, restricting or prohibiting the type, incidence, or extent of recreational use of a class I or class II water.
- (2) A petition under this section must meet the requirements of ARM 12.4.103(2) and must specifically allege one or more of the following facts in support of the request for commission action:
 - (a) that public use is damaging the banks and land adjacent to the water body;
 - (b) that public use is damaging the property of the landowner underlying or adjacent to the water body;
 - (c) that public use is adversely affecting fish or wildlife;
 - (d) that public use is disrupting or altering natural areas or biotic communities;
 - (e) that public use is causing degradation of the water body; and
 - (f) that any alleged damage, adverse effect, disruption or alteration is not being caused by private use.
 - (g) where public recreational use presents a clear threat of degradation to the water body or of disruption or alteration to natural areas or biotic communities, and where present and future owners are legally bound by conservation easements to stringent management practices which protect the natural values of the waterbody and its bed and banks.
 - (h) where present or anticipated use presents a clear and immediate threat of any of the items described in (a) through (e) of this subsection.
- (3) Each allegation of damage in the petition must be accompanied by a specific description of the damage, including the character of the damage (i.e., erosion, crop damage, etc.) and a description of the location on the river or stream where the damage has occurred.
- (4) The commission shall process the petition in accordance with ARM 12.4.103(3) through (9) , and may order any restriction on recreational use it finds necessary to alleviate damage described in ARM 12.4.104(2) , including absolute prohibition of recreational use, provided that it confines its action to that which is least disruptive to public recreational use and still provides the necessary protection.

Implementing statute(s): 23-2-302, MCA

History: NEW, 1985 MAR p. 917, Eff. 7/12/85.