

BEFORE THE FISH, WILDLIFE AND PARKS COMMISSION  
OF THE STATE OF MONTANA

In the matter of the adoption of a	)	
temporary emergency rule closing the	)	NOTICE OF ADOPTION OF A
Missouri River from American Bar	)	TEMPORARY EMERGENCY RULE
Gulch to Beartooth Landing, Lewis	)	
and Clark County, MT	)	

TO: All Concerned Persons

1. The Fish, Wildlife and Parks Commission (commission) believes the following reasons justify the adoption of a temporary emergency rule:

(a) There is an immediate need for a source of water for aircraft dropping water on fires along and adjacent to the Missouri River in the Gates of the Mountains and Upper Holter Lake. The use of the aircraft is part of Northern Rockies interagency fire management.

(b) The aircraft scoop water with a large bucket while hovering over the surface of the Missouri River and Upper Holter Lake.

(c) Persons on the Missouri River recreating while aircraft are loading water would be subjected to immediate and extreme danger. Furthermore, flight crews would be subjected to increased and additional peril if aircraft had to maneuver narrow passageways and high cliff walls to avoid recreationists.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the commission intends to adopt the following temporary emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as a temporary emergency rule in Issue No. 15 of the 2007 Montana Administrative Register.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on August 16, 2007, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; fax (406) 444-7456; or e-mail [jesnyder@mt.gov](mailto:jesnyder@mt.gov).

3. The temporary emergency rule is effective July 26, 2007.

4. The text of the temporary emergency rule provides as follows:

RULE I MISSOURI RIVER TEMPORARY EMERGENCY CLOSURE

(1) The Missouri River northeast of Helena is located in Lewis and Clark County.

(2) The Missouri River from the beginning of Upper Holter Lake at American Bar Gulch to the Beartooth Landing is closed to all boating, floating, and swimming and any other public occupation of the river.

(3) This rule is effective as long as this portion of the Missouri River is needed as a source of water for fighting wildfires. The commission delegates its authority to the department, in consultation with the commissioner in the region, to determine when the Missouri River is again safe for boating, floating, and swimming and any other occupation of the river.

AUTH: 2-4-303, 87-1-303, MCA

IMP: 2-4-303, 87-1-303, MCA

5. The rationale for the temporary emergency rule is as set forth in paragraph 1.

6. This rule will expire as soon as the department determines the river is again safe for boating, floating, and swimming and any other occupation of the river. This will depend on the extent and duration of wildfires in the area. Signs restricting use of the river will be removed when the rule is no longer effective. Notice of repeal of this emergency rule will be published in the Montana Administrative Register.

7. Concerned persons are encouraged to submit their comments to the department. They should submit their comments along with their names and addresses to Michael Korn, Law Enforcement Division, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, Montana 59620-0701; telephone (406) 444-2456; fax (406) 444-7894; or e-mail mkorn@mt.gov. Any comments must be received no later than August 23, 2007.

8. 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, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

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

/s/ Larry G. Peterman  
Larry G. Peterman,  
Chief of Field Operations  
Department of Fish, Wildlife and Parks  
Acting Secretary  
Fish, Wildlife and Parks Commission

/s/ Rebecca Dockter  
Rebecca Dockter  
Rule Reviewer

Certified to the Secretary of State July 26, 2007.