

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  
Smith River from Camp Baker to ) TEMPORARY EMERGENCY RULE  
Eden Bridge )

TO: All Concerned Persons

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

(a) There is intermittent ice on the Smith River that has caused the river to be impassable by recreationists. The steep canyon walls provide a perfect place for ice to collect and remain due to lack of sun exposure. The impassible ice jams have caused stranded recreationists to have no choice but to hike for miles to get out of the canyon area.

(b) Persons recreating on the river in these conditions would be subjected to:

- (i) collisions with ice;
- (ii) becoming stranded and having to hike out of steep canyon areas; or
- (ii) drowning.

(c) 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 adopts 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. 7 of the 2008 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 April 18, 2008, 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 March 27, 2008 when this rule notice is filed with the Secretary of State.

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

RULE I SMITH RIVER TEMPORARY EMERGENCY CLOSURE

(1) The closed portion of the Smith River is located in Meagher and Cascade Counties.

(2) The Smith River is closed to all floating on the river between Camp Baker and Eden Bridge.

(3) This rule is effective as long as there is intermittent ice on the Smith River. The commission delegates its authority to the Department of Fish, Wildlife and Parks (department), in consultation with the commissioner in the region, to determine when this portion of the river is again safe for boating, floating, and swimming and any other occupation of the water and to rescind the temporary emergency closure.

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 the ice 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 Jessica Snyder, Legal Unit, Department of 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). Any comments must be received no later than April 18, 2008.

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 Peterman

Larry Peterman

Acting Secretary

Fish, Wildlife and Parks Commission

/s/ Rebecca Jakes Dockter

Rebecca Jakes Dockter

Rule Reviewer

Certified to the Secretary of State March 27, 2008.