

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
Canyon Ferry Reservoir, Broadwater) TEMPORARY EMERGENCY RULE
County, from the silos to the southern)
shore)

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 an immediate need for a source of water for aircraft dropping water on the Bear Gulch fire.

(b) Persons recreating on Canyon Ferry Reservoir while aircraft are loading water would be subjected to potential collisions that could result in injury or death. Furthermore, flight crews would be subjected to increased and additional peril if aircraft had to maneuver to avoid recreationists.

(c) ARM 12.11.6601 outlines the Department of Fish, Wildlife and Parks' (department) authority to close public waters due to fire emergency.

(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 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. 16 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 September 19, 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.

3. The temporary emergency rule is effective August 19, 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 CANYON FERRY RESERVOIR TEMPORARY EMERGENCY CLOSURE (1) The Canyon Ferry Reservoir closure is located in Broadwater County.

(2) Canyon Ferry Reservoir is closed to all boating, floating, and swimming and any other public occupation of the water from the silos to the southern shore of the reservoir.

(3) This rule is effective as long as Canyon Ferry Reservoir is needed as a source of water for fighting wildfires.

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 reservoir is again safe for boating, floating, and swimming and any other occupation of the reservoir. This will depend on the extent and duration of wildfires in the area. Signs restricting use of the reservoir will be removed when the rule is no longer in effect. 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, Montana 59620-0701; telephone (406) 444-4594; fax (406) 444-7456; or e-mail jesnyder@mt.gov. Any comments must be received no later than October 2, 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/ M. Jeff Hagener
M. Jeff Hagener,
Secretary
Fish, Wildlife and Parks Commission

/s/ Robert N. Lane
Robert N. Lane
Rule Reviewer

Certified to the Secretary of State August 19, 2008.