

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
Beartooth Wildlife Management Area) TEMPORARY EMERGENCY RULE
in Lewis and Clark County)

TO: All Concerned Persons

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

(a) A wildfire burning near Holter Lake is rapidly approaching the Beartooth Wildlife Management Area.

(b) Persons recreating on the Beartooth Wildlife Management Area would be subjected to erratic and unpredictable fire conditions posing a danger of:

(i) becoming surrounded and trapped by the fire;

(ii) becoming a potential burden to rescue and fire crews; or

(iii) death.

(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 department 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. 18 of the 2009 Montana Administrative Register.

2. The department 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 October 9, 2009, to advise us of the nature of the accommodation that you need. Please contact Jessica Fitzpatrick, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-9785; fax (406) 444-7456; or e-mail jfitzpatrick@mt.gov.

3. The temporary emergency rule is effective September 11, 2009 when this rule notice is filed with the Secretary of State.

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

RULE I BEARTOOTH WILDLIFE MANAGEMENT AREA TEMPORARY EMERGENCY CLOSURE (1) The Beartooth Wildlife Management Area is located in Lewis and Clark County.

(2) The Beartooth Wildlife Management Area is closed to all public occupation, hunting, and recreation.

(3) This rule is effective as long as there is fire threatening the Beartooth Wildlife Management Area and until the department repeals this rule.

AUTH: 23-1-106, MCA
IMP: 23-1-106, 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 Beartooth Wildlife Management Area is again safe for occupation and recreation. This will depend on the extent and duration of the fire in the area. Signs restricting use of the Beartooth Wildlife Management Area 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 Fitzpatrick, Legal Unit, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-9785; fax (406) 444-7456; or e-mail jfitzpatrick@mt.gov. Any comments must be received no later than October 30, 2009.

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 contact requirements of 2-4-302, MCA, do not apply.

/s/ Robert N. Lane

Robert N. Lane

Department of Fish, Wildlife and Parks

/s/ Bill Schenk

Bill Schenk

Rule Reviewer

Certified to the Secretary of State September 11, 2009.