

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

In the matter of the adoption of a)
temporary emergency rule restricting) NOTICE OF ADOPTION OF A
Echo Lake in Flathead County to a no) TEMPORARY EMERGENCY RULE
wake speed)

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) The Flathead County Board of Commissioners requested the restriction in response to requests from residents on the lake and also, because the Flathead County Office of Emergency Services is observing damage to homes and structures at the current water levels.

(b) Echo Lake is mostly ground water fed. The water level has far exceeded normal full pool and will most likely continue to rise due to the existing snow pack still in the drainage. Currently, there are more than fifty inches of moisture at the Noisy Basin Snotel site located just east of Echo Lake.

(c) Echo Lake does not have an outlet to drain excess water.

(d) Residents have been building protective structures, such as sandbags, around their homes.

(e) In the current condition, wake speeds create wave action subjecting buildings, homes, and structures to:

(i) integrity degradation;

(ii) possible septic contamination;

(iii) destruction of protective structures; or

(iv) damage caused by debris.

(f) 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. 13 of the 2011 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 July 29, 2011, 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 June 29, 2011 when this rule notice is filed with the Secretary of State.

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

RULE I ECHO LAKE TEMPORARY EMERGENCY RESTRICTION

(1) Echo Lake is located in Flathead County.

(2) All watercraft on Echo Lake are limited to a controlled no wake speed as defined in ARM 12.11.101.

(3) This rule is effective as long as water levels are high on Echo Lake. 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 wakes from motorized use will no longer pose a threat to public health and human safety and rescinds 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 water level of the lake no longer poses a threat to homes, buildings, or structures. Signs restricting use of the lake 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 August 12, 2011.

8. The Department of Fish, Wildlife and Parks maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the commission or department. Persons who wish to have their name added to the list shall make written request, which 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 commission or department.

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

/s/ Joe Maurier

Joe Maurier, Secretary
Fish, Wildlife and Parks Commission

/s/ Rebecca Jakes Dockter

Rebecca Jakes Dockter
Rule Reviewer

Certified to the Secretary of State June 29, 2011.