

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

In the matter of the adoption of a ) NOTICE OF ADOPTION OF A  
temporary emergency rule closing the ) TEMPORARY EMERGENCY RULE  
Yellowstone River in Park County )

TO: All Concerned Persons

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

(a) Construction is occurring on the Highway 89/Park Avenue bridge that crosses the Yellowstone River and a work bridge that spans the channel is in place downstream of the existing bridge.

(b) The current is strong and boaters may not be able to escape hazards. One fishing boat has become trapped against the work bridge.

(c) Due to these conditions, persons floating the Yellowstone River could be subjected to strong current that could cause:

(i) collisions with structures; or

(ii) drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, 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. 1 of the 2013 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 January 31, 2013, 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) 444-9785; fax (406) 444-7456; or e-mail [jessnyder@mt.gov](mailto:jessnyder@mt.gov).

3. The temporary emergency rule is effective December 13, 2012 when this rule notice is filed with the Secretary of State.

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

RULE I YELLOWSTONE RIVER TEMPORARY EMERGENCY CLOSURE

(1) A portion of the Yellowstone River is located in Park County.

(2) The Yellowstone River is closed:

(a) to all floating from Mayor's Landing Fishing Access Site to Highway 89 Bridge Fishing Access Site; and

(b) to all public occupation and recreation including, but not limited to, floating, swimming, wading, and boating 100 feet above and below the bridge.

(3) Vessels, equipment, and employees necessary for completion of the Highway 89/Park Avenue bridge construction are permitted to occupy the restricted and closed areas of the Yellowstone River.

(4) This rule is effective as long construction efforts on the Yellowstone River pose safety risks and until the department repeals this rule.

(5) This rule will expire as soon as the department determines Yellowstone River is again safe for floating. This will depend on the extent and duration of the construction in the area. Signs restricting use of the Yellowstone River will be removed when the rule is no longer effective.

AUTH: 2-7-303, 87-1-303, MCA

IMP: 2-7-303, 87-1-303, MCA

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

6. 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, 1712 9th Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-9785; fax (406) 444-7456; or e-mail [jesssnyder@mt.gov](mailto:jesssnyder@mt.gov). Any comments must be received no later than February 15, 2013.

7. 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.

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

/s/ David Risley

David Risley, Acting Director  
Department of Fish, Wildlife and Parks

/s/ Rebecca Jakes Dockter

Rebecca Jakes Dockter  
Rule Reviewer

Certified to the Secretary of State December 13, 2012.