

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

(a) Between the dates of July 1 and July 4, 2013, a series of incidents have occurred at multiple boat camps along the lower portion of the river corridor in which one or more black bears have frequented boat camps occupied by floaters.

(b) The incidents have included bears obtaining food from coolers and other containers, a tent and air mattress that were punctured by a bear, and on at least five occasions campers have discharged pepper spray to ward off bears that have no apparent fear of humans.

(c) Persons recreating within this section of the river could be subjected to:

(i) injury due to an encounter with a bear; or

(ii) death caused by a mauling.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, due to the combination of unsafe conditions 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. 14 of the 2013 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 August 9, 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 [jesssnyder@mt.gov](mailto:jesssnyder@mt.gov).

3. The temporary emergency rule is effective July 9, 2013 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 bears pose a threat to humans.

(4) This rule will expire as soon as the department determines the river is again safe for occupation and recreation. Signs closing the river will be removed when the rule is no longer effective.

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 floating and the rule is repealed. This will depend on the extent and duration of the debris in the area and flow levels. 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) 454-5845; fax (406) 444-7456; or e-mail [jesssnyder@mt.gov](mailto:jesssnyder@mt.gov). Any comments must be received no later than August 23, 2013.

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/ Mike Volesky

Mike Volesky, Acting Secretary  
Fish, Wildlife and Parks Commission

/s/ Rebecca Dockter

Rebecca Dockter  
Rule Reviewer

Certified to the Secretary of State July 9, 2013.