

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of a) NOTICE OF AMENDMENT OF A
temporary emergency rule closing the) TEMPORARY EMERGENCY RULE
Clark Fork River from Big Eddy)
Fishing Access Site to Dry Creek)
Fishing Access Site in Mineral County)

TO: All Concerned Persons

1. On July 15, 2013, the Department of Fish, Wildlife and Parks (department) published MAR Notice No. 12-394 pertaining to the adoption of a temporary emergency rule closing the Clark Fork River in Mineral County at page 1335 of the 2013 Montana Administrative Register, Issue Number 14. The department had determined the following reasons justified the adoption of a temporary emergency rule:

- (a) The West Mullan wildfire is burning near Superior, Montana.
- (b) Fire suppression efforts include several helicopters bucketing water from the Clark Fork River.
- (c) The Assistant Fire Management Officer has requested the closure and the department has determined the closure is necessary so helicopter crews can safely operate and maneuver without potential collisions with recreationists on the river. The closure is also necessary so recreationists, including those with limited maneuverability, are not subject to potential collision with large, heavy water buckets suspended from helicopters.
- (d) The wildfire has increased in size and the area helicopter crews are using to bucket water has been increased. A retardant station has been established at Big Eddy Fishing Access Site requiring the department to close the area to members of the public.
- (e) 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 amendment of a temporary emergency rule. The amended 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 amended rule will be sent to interested parties, and published as a temporary emergency rule in Issue No. 15 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 August 23, 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.

3. The amendment of the temporary emergency rule is effective July 19, 2013, when this rule notice is filed with the Secretary of State.

4. The department has adopted RULE I as follows, stricken matter interlined, new matter underlined:

RULE I CLARK FORK RIVER TEMPORARY EMERGENCY CLOSURE

(1) A portion of the Clark Fork River is located in Mineral County.

(2) The Clark Fork River is closed from Big Eddy Fishing Access Site to ~~Dry Creek Fishing Access Site~~ the United States Forest Service's Slowey Campground to all public occupation and recreation including, but not limited to, floating, swimming, wading, fishing, and boating.

(3) Big Eddy Fishing Access Site and Dry Creek Fishing Access Site are closed to all public occupation.

~~(3)~~(4) This rule is effective as long as this stretch of river is needed as a source of water for fire suppression efforts.

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 is in effect as long as the stretch of river and fishing access sites are needed as a source of water for fire suppression and the department determines the Clark Fork River and fishing access sites are again safe for occupation and recreation. This will depend on the extent and duration of the fire in the area. Posted signs regarding the emergency closure 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, Department of Fish, Wildlife and Parks, PO Box 200701, Helena, MT 59620-0701; fax (406) 444-7456; or e-mail jesssnyder@mt.gov. Any comments must be received no later than September 6, 2013.

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/ Mike Volesky

Mike Volesky

Deputy Director

Department of Fish, Wildlife and Parks

/s/ Zach Zipfel

Zach Zipfel

Rule Reviewer

Certified to the Secretary of State July 19, 2013.