

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the adoption of a) NOTICE OF ADOPTION OF A
temporary emergency rule closing a) TEMPORARY EMERGENCY RULE
portion of the Yellowstone River and)
all associated tributaries)

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department), after approval by Fish and Wildlife Commissioners, Dan Vermillion, Richard Stuker, Matthew Tourtlotte, and Gary Wolfe, has determined the following reasons justify the adoption of a temporary emergency rule:

(a) There is significant whitefish die-off due to a microscopic parasite, *Tetracapsula bryosalmonae*, causing Proliferative Kidney Disease on the Yellowstone River and its tributaries from the northern boundary of Yellowstone National Park in Gardiner, Montana to the Highway 212 Bridge in Laurel, Montana.

(b) The disease is one of the most serious diseases to impact whitefish and trout and can be spread to different species as well as different water bodies if diseased fish are moved from one water body to another.

(c) High water temperatures, low stream flow, and all other stressors increase the mortality of this infection. The less stress the fish face from boaters, anglers, and recreationists, the more likely the survival rate will increase and the threat of spread of disease will decrease.

(d) Therefore, as this situation constitutes an imminent peril to public 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. 17 of the 2016 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 September 16, 2016, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The temporary emergency rule is effective August 19, 2016 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 AND ASSOCIATED TRIBUTARIES
TEMPORARY EMERGENCY CLOSURE TO ALL PUBLIC OCCUPATION (1) The Yellowstone River and all of its associated tributaries are closed:

(a) from the northern boundary of Yellowstone National Park in Gardiner, Montana to the Highway 212 Bridge in Laurel, Montana; and

(b) to all public occupation and recreation including, but not limited to, floating, swimming, wading, fishing, and boating.

(2) This rule is effective until environmental conditions improve and fish mortality ceases. This rule will expire as soon as the department determines these conditions have been met but not for a period longer than 120 days. Signs restricting use of the Yellowstone River and its tributaries 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. Concerned persons are encouraged to submit their comments to the department. They should submit their comments along with their names and addresses to, Department of Fish, Wildlife and Parks Region 3, 1400 South 19th Ave., Bozeman, MT 59718-5498; or e-mail thorton@mt.gov. Any comments must be received no later than September 30, 2016.

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/ M. Jeff Hagener
M. Jeff Hagener
Secretary
Fish and Wildlife Commission

/s/ Rebecca Dockter
Rebecca Dockter
Rule Reviewer

Certified to the Secretary of State August 19, 2016.