

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

In the matter of the adoption of an ) NOTICE OF AMENDMENT OF AN  
emergency rule closing a portion of ) EMERGENCY RULE  
the Clark Fork River from the )  
Reserve Street Bridge to the Kelly )  
Island Fishing Access Site in )  
Missoula County )

TO: All Concerned Persons

1. On May 14, 2018, the Department of Fish, Wildlife and Parks (department) adopted and filed an emergency rule closing a portion of the Clark Fork River in Missoula County. MAR Notice No. 12-487 pertaining to the emergency rule was published on page 1031 of the 2018 Montana Administrative Register, Issue Number 10. The department had determined the following reasons justified the adoption of an emergency rule:

(a) The Incident Command for the Missoula 2018 Flood requested Montana Department of Fish, Wildlife and Parks close a portion of the Clark Fork River due to risk to public health and human safety caused by downed powerlines in the river and high-water levels choked with debris, making it unsafe for water-based recreational use from the Reserve Street Bridge to the Kona Bridge.

(b) Since the original adoption, waterflows and debris have decreased but a downed powerline is still in the river and unable to be seen by recreationists. The current situation allows for the department to reduce the length of river closed to recreation. A portion needs to remain closed to address the safety issues concerning the downed powerline. The closure will now be from the Reserve Street Bridge to the upstream boundary of the Kelly Island Fishing Access Site.

(c) Persons recreating on this portion of the river are at risk of electrocution and drowning due to downed powerlines.

(d) 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 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 an emergency rule in Issue No. 12 of the 2018 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 July 13, 2018, 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](mailto:kgangstad@mt.gov).

3. The emergency rule is effective June 7, 2018, when this rule notice is filed with the Secretary of State.

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

NEW RULE I CLARK FORK RIVER EMERGENCY CLOSURE (1) A portion of the Clark Fork River is located in Missoula County.

(2) The Clark Fork River is closed from the Reserve Street Bridge to the upstream boundary of Kelly Island Fishing Access Site to all water-based recreation, including but not limited to wading, fishing, boating, floating, and swimming.

(3) This rule is effective as long as the downed powerlines caused by flooding create unsafe conditions for water-based recreation.

(4) This rule will expire as soon as the department or incident command determines the river is again safe for recreation. This will depend on the extent and duration of time it takes for the downed powerlines to be removed from the river. Signs closing the river will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

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

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [kgangstad@mt.gov](mailto:kgangstad@mt.gov). Any comments must be received no later than July 20, 2018.

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/ Martha Williams

Martha Williams

Director

Department of Fish, Wildlife and Parks

/s/ Zach Zipfel

Zach Zipfel

Rule Reviewer

Certified to the Secretary of State June 7, 2018.