

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

In the matter of the adoption of an) NOTICE OF ADOPTION OF
emergency rule closing the Mallard's) EMERGENCY RULE
Rest Fishing Access Site in Park)
County)

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Mallard's Rest Fishing Access Site:

(a) The Mallard's Rest Fishing Access Site (FAS) is located along Highway 89, which is currently flooded. Highway 89's steep embankment is collapsing into the FAS. Along with the collapsing embankment, the FAS is also flooded.

(b) The combination of dangerous conditions include the eroding and collapsing highway bank, high water levels, rapidly changing water levels, and flooded roadways that have become unsafe for vehicle and pedestrian travel.

(c) Persons recreating at the fishing access site would be at risk of becoming trapped by the collapsing bank and unsafe roadways, injury, or drowning due to flooding.

(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 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. 7 of the 2019 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 April 26, 2019, 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 emergency rule is effective March 26, 2019, when this rule notice is filed with the Secretary of State.

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

RULE I MALLARD'S REST FISHING ACCESS SITE EMERGENCY CLOSURE

(1) The Mallard's Rest Fishing Access Site is located along the Yellowstone River in Park County.

(2) The Mallard's Rest Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will remain in effect until the department determines that the site is again safe for public occupancy. This will depend on the extent and duration of the collapsing highway bank including the Department of Transportation's assessment of the bank, as well as the extent of flooding in the fishing access site. Signs closing the fishing access site 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. They should submit their comments along with their names and addresses to Travis Horton, Fish, Wildlife and Parks, 1400 South 19th Avenue, Bozeman, MT 59718-5496; or e-mail thorton@mt.gov. Any comments must be received no later than May 10, 2019.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department. 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, 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/ Mike Volesky

Mike Volesky

Chief of Operations

Department of Fish, Wildlife and Parks

/s/ Aimee Hawkaluk

Aimee Hawkaluk

Rule Reviewer

Certified to the Secretary of State March 26, 2019.