

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
Noxon Reservoir in Sanders County)

TO: All Concerned Persons

1. On May 18, 2018, the Department of Fish, Wildlife and Parks (department) adopted and filed an emergency rule closing a portion of Noxon Reservoir in Sanders County. MAR Notice No. 12-489 pertaining to the emergency rule was published on the department's website and will be published in the 2018 Montana Administrative Register, Issue Number 11. The department had determined the following reasons justified the adoption of an emergency rule:

(a) The combination of dangerous conditions includes high water levels, fast moving currents, and compromised safety infrastructures that usually prevent recreationists from going over the dam.

(b) Persons recreating on the reservoir are at risk of:

(i) collisions with debris and other hazards due to strong currents;

(ii) injury or drowning.

(c) Waterflows have decreased and it has been determined that the closure can be decreased. All waters of the reservoir are closed to recreation from the downstream side of Stevens Creek Bay, across the reservoir to the mouth of McKay Creek, to Noxon Dam.

(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.

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 NOXON RESERVOIR EMERGENCY CLOSURE (1) Noxon Reservoir is located in Sanders County.

(2) All waters of the reservoir are closed to recreation from the downstream side of Stevens Creek Bay, across the reservoir to the mouth of McKay Creek, to Noxon Dam.

(3) This rule is effective as long as the dangerous conditions exist.

(4) This rule will expire as soon as the department determines the reservoir is again safe for occupation and recreation. This will depend on the extent and duration of the conditions. Signs closing the reservoir 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 during the upcoming standard rulemaking process. If concerned persons wish to be personally notified of that rulemaking process, they should submit their 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. 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/ Aimee Hawkaluk

Aimee Hawkaluk

Rule Reviewer

Certified to the Secretary of State June 7, 2018.