

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 AN  
emergency rule closing a portion of ) EMERGENCY RULE  
the Swan River in Lake 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 a portion of the Swan River:

(a) The Montana Highway 209 bridge on the Swan River near Ferndale is under construction and a temporary bridge currently exists.

(b) The temporary bridge has unique abutments that, combined with high-water levels, are catching debris and creating swirling waves.

(c) Several accidents have already occurred under the bridge. With the peak water recreation season approaching, the department believes that more accidents and capsizing are likely to occur under the temporary bridge. Previous attempts at mitigating hazards, including news releases, social media notifications, signage, and navigational buoys, have proven ineffective.

(d) Persons recreating under the bridge are at risk of injury or drowning due to the dangerous conditions created by the temporary bridge.

(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 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. 13 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 20, 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 29, 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 SWAN RIVER EMERGENCY CLOSURE (1) A portion of the Swan River is located in Lake County.

(2) The Swan River is closed to all floating, boating, swimming, and wading from the Swan River Fishing Access Site to the Montana Highway 209 Bridge in Ferndale. Fishing from the shore is permitted.

(3) This rule is effective as long as the temporary bridge is creating a hazardous and dangerous situation.

(4) This rule will expire as soon as the department determines the area is again safe for occupation and recreation. This will depend on the high-water flows and progress on the bridge construction. 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 August 3, 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/ Dustin Temple

Dustin Temple

Chief of Administration

Department of Fish, Wildlife and Parks

/s/ Zach Zipfel

Zach Zipfel

Rule Reviewer

Certified to the Secretary of State June 29, 2018.