

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

In the matter of the adoption of a) NOTICE OF ADOPTION OF
temporary emergency rule pertaining) TEMPORARY EMERGENCY RULE
to Smith River State Park's Black)
Butte boat camp)

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of a temporary emergency rule:

(a) Between the dates of April 29, 2014 and May 11, 2014, a series of incidents were reported at multiple boat camps along the lower portion of the Smith River corridor in which one or more black bears have frequented boat camps occupied by floaters. The incidents have included a bear with no apparent fear of humans approaching a private float group at a camp site forcing them to retreat back onto the river, a latrine riser chewed by a bear, and on at least three known occasions, latrines being knocked over. The series of reports leads the department to believe the subject bear to be habituated.

(b) Persons recreating at these campsites could be subjected to:

(i) injury due to an encounter with a bear; or

(ii) death caused by a mauling.

(c) 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 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. 10 of the 2014 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 June 6, 2014, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; fax (406) 444-7456; or e-mail jesssnyder@mt.gov.

3. The temporary emergency rule is effective May 12, 2014, when this rule notice is filed with the Secretary of State.

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

NEW RULE I BLACK BUTTE BOAT CAMP CLOSURE (1) Black Butte Boat Camp is located on the Smith River in Cascade County.

(2) Black Butte boat camp consists of two campsites, Upper and Lower. Both campsites are closed to all public occupation.

(3) This rule is effective as long as these bears pose a threat to humans.

(4) This rule will expire as soon as the department determines the campsites are again safe for occupation and recreation. Signs closing the camp will be removed when the rule is no longer in effect.

AUTH: 2-4-303, 23-1-106, MCA

IMP: 2-4-303, 23-1-106, MCA

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

6. This rule is in effect as long as the danger exists. Posted signs regarding the emergency closure will be removed when the rule is no longer effective. Notice of repeal of this emergency rule will be published in the Montana Administrative Register.

7. 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: Jessica Snyder, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT 59620-0701; fax (406) 444-7456; or e-mail jesssnyder@mt.gov. Any comments must be received no later than June 27, 2014.

8. 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.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

/s/ Mike Volesky

Mike Volesky

Chief of Staff

Department of Fish, Wildlife and Parks

/s/ Zach Zipfel

Zach Zipfel

Rule Reviewer

Certified to the Secretary of State May 12, 2014.